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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable DEBBIE STABENOW, a Senator from the State of Michigan.

PRAYER

The PRESIDING OFFICER. I am very pleased today to have the prayer be given by our guest Chaplain from the great State of Michigan, Rev. Timothy Tuthill of the First United Methodist Church in Mason, MI.

The guest Chaplain offered the following prayer:

Let us pray.

Almighty and Everlasting God, You created order out of chaos and have given us life and as we gather here today we are reminded of Your grace and trust in us all. Through Your wisdom, O God, You have shared out of Your abundance and gifted us with minds to think and a spirit to act. We are grateful for the opportunity to serve our country as elected leaders and servants. Guide our elected officials as they debate and discern and may our Senators seek Your great counsel and be mindful of the needs of our communities, States, country, and world.

In this time, let us be ready to stand firm and be guided by the principles that led the Founders of our country to pursue liberty and justice for all. Continue to be with all those who are in harm's way today and guide our Nation and world as we continue to look for peaceful ways to resolve conflict near and far. We ask this and all things in your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DEBBIE STABENOW led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

KILLING OF AL-ZARQAWI

Mr. FRIST. Mr. President, the Senate just finished honoring our flag with the Pledge of Allegiance, an innovation we added to the Senate proceeding several years ago upon the suggestion and urging of our former colleague, Senator Bob Smith of New Hampshire. As we pay respect to those stars and those stripes, the news this morning of the events in Iraq bring new strength to the patriotism reflected by the Senate for that flag and, indeed, for our country.

Today, our military forces are to be commended for their dedication to eradicating the terrorist network in Iraq. Today's success in eliminating the terrorist, the butcher terrorist, the thuggish terrorist, al-Zarqawi, is a sure sign they are on the way to accomplishing that goal.

In my own visits to Iraq, I have had the opportunity to see firsthand the amazing work our soldiers are doing there on the ground. We are proud of our military, proud of the tremendous work they are doing, and thank them for their efforts and their sacrifice for us each and every day.

Al-Zarqawi was a man who was responsible for the beheading, the killing of hundreds and, indeed, thousands of innocent children, women, and men. He was responsible for the death of many Americans in uniform, men and women. For those reasons, we all know it is a great day for Iraq and, indeed, for the United States.

Al-Zarqawi was the operational head. He is a symbolic head, we know, but equally importantly the operational head of al-Qaida in Iraq. Osama bin Laden called him the ''prince of Al-Qaeda.'' Reportedly, he masterminded the operations, the financial infrastructure, the financial underpinnings, and the strategic support for the terrorist network. While we all know there are many insurgents who remain in Iraq, this is surely a major blow to the terrorists who threaten both the safety and the security of Iraq and, indeed, the United States.

It is also a significant day in the formation of the Government of Iraq, the appointment of the Ministers of Defense, of the Interior, and of National Security. It is a major step forward. The Prime Minister and most of the Cabinet have been in place for about 3 weeks. I think 37 are in place with the completion of that Cabinet today. It is a major step forward. It has been a good morning. These developments are major steps forward. Although, as we all know, many challenges remain, I am more optimistic than ever that a free and stable Iraq can be achieved.

SCHEDULE

Mr. FRIST. Mr. President, I will update our colleagues over the course of the day and run down our schedule.

In a couple of minutes, we will start the 1 hour of debate prior to the cloture vote on the death tax repeal. Therefore, that first vote is expected to begin sometime between about 10:45 and 10:50. Regardless of the outcome of that cloture vote, we will then have the final debate prior to the cloture vote on the motion to proceed to the Native Hawaiians bill. That vote is set for 12:45 this afternoon.

The rest of today's schedule will depend on the outcome of those two cloture votes. We hope to have additional votes this afternoon on four district judges on the calendar, as well as the debate and the vote on the Schwab nomination to be U.S. Trade Representative.

I remind everyone that last night we filed cloture on a Mine Safety and Health nomination. That cloture vote will occur tomorrow unless some other agreement is reached.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

AL-ZARQAWI

Mr. REID. Mr. President, I certainly underscore the statement of the distinguished majority leader. This is a good day for the U.S. military and especially our intelligence community. We should feel very good about this. The mission we are talking about, the successful outcome, is a testament to the bravery, the skill, and the determination of those dedicated men and women on the front lines. This is hard to say about any human being, but he got what he deserved. Anyone who aligns himself with him should know they could await a similar fate as long as they engage in terror.

I was very pleased to hear the President's statement. It was measured. We all recognize there are a lot of difficult days ahead for the United States and Iraqi forces, but having a Security Minister, a Defense Minister, and an Interior Minister makes it that much closer to when we can start drawing down the troops.

DEFENSE AUTHORIZATION AND IMMIGRATION

I look forward—I hope in the near future, and I am confident that will be the case—to working on our Defense authorization bill, which is something we need to do.

I also say through the Chair to the distinguished majority leader, this is important for our colleagues. We are trying to work something out to get the immigration reform bill to conference with the House. People think we spend a lot time on minutia, all this procedural stuff, but that is the way it is. People are going to have to be patient. We are trying to get a vehicle to go to the House where we have assurances that it will be an immigration bill and not a tax bill. We do not have that worked out yet. I say to my colleagues and through the Chair to the distinguished majority leader, as he knows, negotiations have started. We are trying to work it out.

Mr. FRIST. Mr. President, to respond through the Chair to the Democratic leader—and actually our colloquy, in essence, is to our colleagues—we recognize the importance, both of us, both sides of the aisle, of getting this bill to conference. We have passed a bill that reflected the will of the Senate. Not everyone agreed with it. I thought we had a very good process we should be proud of in terms of debate and amendment and allowing the people's will to be discussed and voted upon.

The next step is getting to conference. We do not need to go into the technical aspects, but it is a challenge to get it there in a way that gives all of the guarantees, but with those guarantees the goal will be to have an immigration bill that stays on immigration. That is exactly what the Democratic leader and I are working on, and we are making progress in that regard.

Mr. REID. Mr. President, I say also that the problem is one person can throw a monkey wrench into the process. We have to try to work it out so no wrenches are thrown.

Mr. President, I ask consent that Senator STABENOW from Michigan be recognized for up to 2 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Michigan is recognized.

THANKING THE GUEST CHAPLAIN

Ms. STABENOW. Mr. President, I take a special moment to say thank you to Rev. Tim Tuthill for giving the invocation today. As a lifelong United Methodist, I am very proud of him.

He is associate pastor of the First United Methodist Church in Mason, MI, and one of our brightest and most engaging young leaders in the community. I am so pleased he is here today.

He has been very active in the mid-Michigan community and served in a number of different leadership positions in the Mason area United Way, the Mason Ministerial Association, the Wesley Foundation, the St. Francis Retreat Center, the West Michigan Conference Leadership Team, and a host of other organizations.

After 8 years with the First United Methodist Church, Reverend Tuthill was recently appointed by the Wesley Foundation to lead the campus ministry at Michigan State, my alma mater, as well as Lansing Community College.

I wish him and his family well. We are so pleased he would take time to join us. We appreciate his words of inspiration this morning.

DEATH TAX REPEAL PERMANENCY ACT OF 2005—MOTION TO PROCEED

The PRESIDENT pro tempore. The Senate will resume consideration of H.R. 8, which the clerk will report.

The bill clerk read as follows:

Motion to proceed to the consideration of H.R. 8, to make the repeal of the estate tax permanent.

The PRESIDENT pro tempore. Under the previous order, there is 1 hour of debate equally divided between the two leaders or their designees, with 10 minutes of the minority time reserved for Senator DURBIN, 10 minutes for Senator DORGAN, and the last 20 minutes reserved as follows: 10 minutes for the Democratic leader, to be followed by the majority leader.

The Senator is recognized.

Mr. DURBIN. Mr. President, we are now considering the repeal of the estate tax. The estate tax is a tax paid by 2 out of every 1,000 Americans. It is not a tax that will affect the vast majority of Americans because they have not accumulated enough wealth in their lifetime to be subject to the tax.

It is an action which is imposed on the very wealthiest, the very richest people in America. It is a tax which is imposed on their estates after a certain amount is exempt. Up to $4 million is exempt for a couple under current estate tax, and that number is scheduled to rise.

However, the Republican majority believes this tax is unfair. They believe it is unfair for the wealthiest people in America, who have accumulated millions of dollars, to pay any tax to the Government on that accumulated wealth when they die. They say that is fundamentally unfair. They come to the Senate with a sense of outrage that we would ask wealthy people in America to pay taxes, so they propose the elimination or dramatic reduction of this tax, to the point where it will add substantially to the deficit of the United States of America.

This is not a tax cut for the wealthy; it is a tax deferral. By reducing or eliminating the tax on the wealthiest, they are passing the burden of taxation on to those in lower income groups. With their elimination of the death tax, they are creating a birth tax.

In other words, if you happen to be born in America and you are one of the 997 out of 1,000 who don't pay the estate tax, you will have a bigger debt and a bigger burden because the Republican majority believes the wealthiest should be spared paying taxes. People who have had the good fortune of living and succeeding in America should be spared, according to the Republicans, any responsibility to pay back to this great Nation for the benefits they have accrued during their lifetime. There is a sense of outrage on the Republican side of the aisle that somehow we would impose this tax. They have created this vast mythology about the estate tax. They translated it into a death tax, suggesting to Americans that when you die you must pay taxes. That is plain false. Only 2 or 3 out of 1,000 people who die each year pay any such tax. Yet the average person on the street believes the Government is going to come and grab whatever small amounts they have kept together for their sons and daughters and take it away in tax collection. It is not true. It is false. It is misleading. It is deceptive.

Who is pushing this great effort to eliminate the estate tax? Will it surprise you to know they are the fattest special interests in Washington, DC? An analysis has shown—and these numbers are nothing short of amazing—that 18 families in the United States of America, with a combined net worth of $185 billion, have spent $200 million lobbying on Capitol Hill to repeal this estate tax. Why? They are going to make a fortune because their fortunes will be

protected from being taxed. This is the ultimate special interest bill. This bill has nothing to do with the average American, the average American family, the average American farm or the average American business. It is about the wealthiest people in America flexing their muscles, pushing through on Capitol Hill the most outrageous piece of special interest legislation in modern memory. The Republican majority is pushing this to the floor with a straight face: We want to eliminate the death tax.

What does it mean for the families behind Wal-Mart, Gallo wine, Campbell's soup and other companies? It means that if they are given full repeal of the estate tax, these 18 families will collectively net a windfall of $71 billion. That is what this is about.

Who will end up paying for it? Our children will. We will take the money which we are not going to collect from the estate tax and end up borrowing. And who will loan us the money? More and more the Bush administration goes overseas to borrow the money: Japan, China, Korea, the oil sheikhs, they will loan us the money. But there are strings attached. Do you remember the Dubai Ports deal? Think there is a connection between these Middle Eastern oil giants now buying into the American economy and what we are doing on the estate tax? It is directly linked. There are bankers, mortgagors. They sell us oil. Why? Because the Republican majority runs up the biggest deficits in the history of the United States.

When President Bush took office, the national debt was $5.8 trillion. The accumulated debt in the history of America was $5.8 trillion. Five years later, the national debt is knocking on the door of $9 trillion. And if they continue to eliminate taxes on the wealthiest people, the debt will be $11 trillion. For the students who are watching this debate on television, in the galleries, through C–SPAN, let me tell you, this effort to find a benefit for the wealthiest families, to absolve them from paying debts for the success they have experienced, is going to be visited on our children and grandchildren. Where is the fairness and where is the justice? Where is the sense of outrage that we would give this special interest legislation such a priority in the Senate? Why wouldn't we consider changing the Tax Code so that average working families can deduct the cost of college education for their kids? Isn't that something good for America? Isn't that of greater value than to say to the superrich: We are going to spare you from paying $71 billion in taxes over the life of this repeal? No. From their point of view, you don't think about the families putting the kids through college. You don't worry about the situation where we have so many Americans, 46 million in fact, without health insurance today. You don't deal with the reality of funding education. You focus your attention and the time of the Republican majority on repealing a tax on the super wealthiest people in America.

Warren Buffett is the second richest man in America. He said: Do you know what is going on here? It is class warfare. And do you know what? My class is winning.

They sure are.

Today the Republican majority will try to put a victory on the board for the richest people in America. Why do we do this? For some, it is a matter of philosophy. They happen to believe if the rich get richer, America will be better off. That has been a philosophy around this country for a long time. I come from a different point of view. I think the strength of America is in its families, those families getting up and going to work every day, doing their best to keep families together, to save money for the future, to put their kids through college. It is in small businesses that take risks and sometimes fail but, when they succeed, build into a business that gives them a chance to hire more people. It is in family farms. That is the strength of America. These other folks have done quite well.

The New York Times went to the Farm Bureau and asked them: Name for us a single example of a family being forced to sell its farm because of estate tax liability. Not one single example derived from the American Farm Bureau. They couldn't find one. I did the same thing in Illinois. Not one farm has been lost because of Federal estate tax liability.

We will hear them crying and moaning and whining and rending their garments about how this is needed to save family farms. They can't come up with a single example where a family farm has been lost by the estate tax. According to the Congressional Budget Office, only 123 family-owned farms and 135 family-owned small businesses would pay any estate tax at all with a $2 million exemption level—across America, pay any tax at all, let alone risk losing their business or farm.

This has been exaggerated to a point which is shameful. To think that at a time when we are facing the biggest deficits, when we are involved in a war where we are asking our sons and daughters to risk their lives for America, that we are going to make those who are comfortable more comfortable by sparing them their taxes, that we are going to welcome home the soldiers by saying, thanks for serving America and, incidentally, here is a larger national debt for you to carry the rest of your life.

I urge my colleagues to defeat this effort to repeal the estate tax.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Arizona is recognized for 10 minutes.

Mr. KYL. I thank the Chair.

Madam President, we are going to have an opportunity very shortly to do something historic; that is, to begin consideration of a process by which we can either eliminate or substantially reduce the impact of this most unfair tax of all, the estate tax, on small businesses, on family farms, on Americans of all stripes who worry that they will have to pay up to half of what they have put into their life savings, their business, their farm, to the Government in an estate tax.

It has been found by Gallup surveys and others that the American people believe this is the most unfair tax and by percentages, 60 to 70 percent agree that it should be eliminated. To some extent there has been an argument that I have to address because it is a straw man. That argument is that this is all about helping the most wealthy families. That is not correct. Here is why. What we have proposed is that immediately upon going to the House bill, there be a cloture vote on that bill which, frankly, I think all would agree, is doubtful of passing. That is to say that there aren't 60 votes in this Chamber to permanently repeal the estate tax. That is what the Senator from Illinois was talking about. We all know that.

As a result, the majority leader has made an absolute commitment—and I reaffirm it—that immediately following that vote, the majority leader would lay down a substitute, a compromise, if you will, that provides that the estate tax will be substantially modified but not repealed. It will be modified in a way that will help those who, because land values have been increasing or because they put all of their money into a small business, would be either required to pay substantial amounts of money to plan for the potential of paying the estate tax, paying lawyers and accountants and buying insurance and the like, would be responsible for a substantial estate tax bill, it would give them relief from that obligation, but it would still say that the wealthiest families, the Warren Buffetts and others mentioned a moment ago, would still have to pay a substantial amount of estate tax.

The specific proposal that will be offered provides that there will be $5 million exempted and that that would be indexed to inflation and that after that, the capital gains rate would be the rate that would apply to estates that would be taxed. But when you get to the superrich the Senator from Illinois referred to, those with a $30 million estate who would probably qualify in that category, anything above that amount would be taxed at a 30 percent rate which would bring in, obviously, a substantial amount of revenue given the wealth of some of those estates. We are not here debating whether it is going to be either all or nothing, a permanent repeal of the estate tax or the status quo. What we are talking about is going to a process by which we consider a compromise which will, in fact, tax the most wealthy but will allow those small businesses and farms the opportunity to continue their existence.

It is interesting that there is a suggestion that this somehow wouldn't

help the small business or the family farm. Let's quote some actual data. For example, the Senator from Illinois challenged us to show one farm that had to sell property in order to pay the estate tax. Here is one, Sam and Ann Payne in Georgia, not too far north of Atlanta. The farm had been in their family since the early 1800s. When their father died in 1968, they had their first experience with the death tax. But then Sam's mother was still alive and it was manageable. When she died 6 years ago, they had to pay close to $400,000 in estate tax. Their land had increased in value. So in order to pay that tax, they had to sell part of their farm to local developers, including an airport. Here is what Sam Payne said:

At a certain point, you sell off too much land and your farm gets so small that you are not a viable agricultural unit, making it difficult to turn a profit.

There are many other examples. Here is what the American Farm Bureau said in a survey. They surveyed their members and nearly 20 percent of the farmers responded to a survey that said that they had to pay Federal estate taxes in the previous 5 years; 44 percent said they would have to mortgage the farm to pay the death tax; 28 percent said that all or part of the farm's business would have to be sold; 39 percent said that any plans for growth would have to be delayed or canceled.

Here is a pernicious aspect of this. A lot of people spend a fortune trying to avoid the tax: 77 percent of farmers reported that they had to spend money each year on estate planning; 40 percent said that they paid more than $10,000 a year; 13 percent more than $25,000 a year; 5 percent pay more than $100,000 a year. That is a real impact, the same kind of impact on small business. We can provide examples. I gave an example yesterday.

Minority businesses are the most hard hit. Here is what Robert Johnson, founder of Black Entertainment TV, had to say:

Elimination of the estate tax will help close the wealth gap in this nation between African-American families and white families.

A 2004 study by Impacto Group LLC surveyed Hispanic family-owned business owners; 20 percent of Hispanic family business owners said they would have to sell their business or property in order to pay the estate tax. Only about half of the respondents believe that they are prepared to deal with the death taxes if the principal owner dies.

Surveys conducted by the Family Enterprise Center of Kennesaw State College and the Center for Family Business at Loyola University found that 90 percent of black-owned, family firms say that paying estate taxes makes growth of the business more difficult; 87 percent say paying the estate tax makes the survival of the business more difficult. Nobody who has run a small business or family farm or has accumulated wealth, perhaps simply by the growth in the value of real estate, will argue that this is not a matter of concern to them.

As the Wall Street Journal editorialized today, even the people who appreciate the fact that it won't apply to them favor repeal. I will quote from the editorial:

Americans favor repealing the death tax not because they think it will help them directly. They're more principled than that. Two-thirds of the public wants to repeal it because they think taxing a lifetime of thrift due to the accident of death is unfair and even immoral. They also understand that the really rich won't pay the tax anyway because they hire lawyers to avoid it.

That is the point of the argument we heard a moment ago.

I ask unanimous consent to print the editorial in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TAXES EVERLASTING

If you've followed the death tax debate, you know that few issues raise liberal blood pressure more. Liberal journalists in particular are around the bend: How in the world can the public support repealing a tax that most Americans will never pay? Good question, so let us try to answer.

Americans favor repealing the death tax not because they think it will help them indirectly. They're more principled than that. Two-thirds of the public wants to repeal it because they think taxing a lifetime of thrift due to the accident of death is unfair, and even immoral. They also understand that the really rich won't pay the tax anyway because they hire lawyers to avoid it.

For proof that they're right, they need only watch the current debate. The superrich or their kin—such as Bill Gates Sr. and Warren Buffett—are some of the loudest voices opposing repeal. Yet they are able to shelter their own vast wealth by creating foundations or via other crafty estate planning. Edward McCaffery, an estate tax expert at USC Law School, argues that ''if breaking up large concentrations of wealth is the intention of the death tax, then it is a miserable failure.''

Do the Kennedys or Rockefellers look any poorer from the existence of a tax first created in 1917? The real people who pay the levy are the thrifty middle class and entrepreneurs who've built up a modest nest egg or business and are hit by a 46% tax rate when they die. Americans want family businesses, ranches, farms and other assets to be passed from one generation to the next. Yet the U.S. has one of the highest death tax rates in the world.

By far the largest supporter of preserving the death tax is the life insurance lobby, which could lose billions of dollars from policies written to avoid the tax. The Los Angeles Times reported this week that the insurance industry is the main funder of an anti-repeal outfit known as the Coalition for America's Priorities. A coalition ad features a sound-alike of heiress Paris Hilton praising the Senate as ''like awesome'' for cutting her family's taxes. But this is the opposite of the truth. The American Family Business Institute has found that the bulk of the Hilton estate has long been sheltered from the IRS in tax-free trusts.

Frank Keating, president of the American Council of Life Insurers, has criticized repeal by saying: ''I am institutionally and intestinally against huge blocs of inherited wealth. I don't think we need the Viscount of Enron or the Duke of Microsoft.'' But while he was Oklahoma Governor in the 1990s, Mr. Keating took a different line: ''I believe death taxes are un-American. They are rooted in the failed collectivist schemes of the past and have no place in a society that values entrepreneurship, work, saving, and families.'' We can appreciate how such a marked change of views would give Mr. Keating intestinal issues.

Which brings us back to the political paradox that, even with Republicans at a low ebb, voters still support death tax repeal. A majority in both houses of Congress also supports it, so Senate Democrats can only stop repeal with the procedural dodge of a filibuster. Even at that, several Democrats are clamoring for a compromise that would take the issue off the table in November. They recall what happened in 2004 to Tom Daschle in South Dakota.

But Republicans should only accept a compromise if it lowers the death tax rate enough (to 15%) to reduce the incentive for avoidance and eliminate its punitive nature. Voters have been saying clearly and for years that they don't want a tax whose only justification is government greed and envy.

Mr. KYL. A lot of the superrich don't care. That is true. There are certain people I will not name, but they have been named, who support continuation of the tax. They have the wealth to be able to get around it with estate planning and to buy the insurance. You heard me quote from minority business owners and farmers who say they cannot afford to pay the cost of that insurance and the estate planning.

Of all of the groups, there is only one that opposes what we are trying to do, and that is the insurance industry. Why not? They make money off of it. If we are talking about special interest legislation, let's understand that the special interests we are trying to protect here are the family-owned businesses, the family farms, the minority businesses; and the special interests that are fighting us are the big insurance companies and the estate planners that make millions of dollars every year.

Alicia Munnell, who was a member of the Clinton administration, has said that the American people pay each year about the same amount to plan against paying the estate tax as the Federal Government collects in revenues from the estate tax. So in effect it is a double tax. Sure, the superwealthy don't care because they have enough money to plan against that. What we are going to do in this proposed compromise is make sure that they pay, but that the people who get caught simply because of the increased value of their property or business will not have to pay.

I also ask unanimous consent to have printed in the RECORD an article by Harvey Rosen from the Market Watch, dated June 8, which makes the point that the American people will benefit when we reduce the rates on the estate tax because it enables capital formation by entrepreneurs and that the economy is better off as a result of the reduction of these rates.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Market Watch, June 8, 2006]

IT IS THE ESTATE TAX RATE THAT MATTERS

(By Harvey S. Rosen)

PRINCETON, NJ.—This week, the U.S. Senate is expected to turn its attention to the Federal estate tax.

Under current law, the estate tax is being phased out, with repeal set for 2010. But then in 2011 the old law is scheduled to be restored, with marginal tax rates that can exceed 50%. The old law was capricious, complex, and inefficient—bringing it back to life in 2011 would be bad policy.

While the first-best policy response would be to make repeal permanent, this option appears to be politically infeasible. An interesting alternative proposed by Senator John Kyl, R–Ariz., would make the estate tax rate permanent at 15%, increase the exemption level to $5 million, and include step-up in basis.

As the debate on Senator Kyl's and other options moves forward, it is important to focus on keeping the rate of the tax law because of the negative consequences that a high rate has on the economy.

First, a high estate tax rate has a detrimental effect on the behavior of individuals in their roles as entrepreneurs. People with large estates are disproportionately owners of small businesses—Douglas Holtz-Eakin, former director of the Congressional Budget Office and Donald Marples (GAO) estimate that entrepreneurs are three times more likely to be subject to the estate tax than portfolio investors. The estate tax in effect reduces the returns to entrepreneurs' investment. Thus, the estate tax increases the ''user cost of capital''—the rate of return that an investment must make in order to be profitable. The higher the user cost of capital, the lower the number of profitable investments available to the entrepreneur.

According to the U.S. Treasury's Office of Tax Analysis, the estate tax leads to an increase in the tax rate of between 4.5 to 9%. Research on entrepreneurial decision making that I published with several colleagues suggests that a 5 percentage point increase in marginal tax rates leads to a 9.9% decline in investment by entrepreneurs. So, if we take the 4.5% tax increase at the low end of the Treasury's range, the implied decrease in entrepreneurial investment is 8.9%. Using the 9% tax rate at the top of the Treasury's range, the decrease in capital accumulation by entrepreneurs is 17.8%.

In short, changes in the user cost of capital induced by the estate tax have a substantial impact on entrepreneurs's investment spending. Given that entrepreneurial enterprises are an important source of growth and innovation in our economy, this is a very sobering result.

Second, an increase in the estate tax rate would have a negative effect on individual saving rates and wealth accumulation. Research by academic economists suggests that an increase in the estate tax rate of 10% leads to a roughly 14% decrease in net worth. Other serious studies conclude that there would be a substantial increase in saving if the estate tax were eliminated altogether.

Put this together with an observation taught in every introductory course in economics: a smaller capital stock reduces productivity and labor income throughout the economy. The clear implication is that the estate tax reduces incomes for everyone. Because of its negative effect on capital accumulation, the burden of the estate tax is shifted, at least in part, to all workers. In particular, future generations are worse off by virtue of having a smaller capital stock with which to work.

Third, arguments that high estate tax rates make the U.S. tax code more progressive are problematic. The basic assumption is that the burden of the estate tax falls entirely on the decedent—the rich dead guy takes the entire tax hit. This assumption is natural because, by law, the decedent's estate is responsible for paying the tax. However, it reflects an approach that the economics profession has rejected for at least a century. Who bears the burden of a tax depends on the underlying economic fundamentals, not on who writes the check to the IRS. When the government levied a special tax on yachts, for example, the burden fell not only on the owners of yachts, but also on the individuals who produced and serviced them. Applying the same kind of logic in this case, the most likely scenario is that the decedent will not bear the burden of the tax. Rather, he or she will simply leave a smaller bequest, because the estate tax makes wealth accumulation (saving) less attractive.

Thus, the argument made by estate tax proponents that increasing the exemption will enhance progressivity is flawed. Whatever the size of the exemption, some entrepreneurs will be hit by the tax and scale back their investment. Other individuals will simply save less. In both cases, the result is the same: workers are worse off. Any estate tax that is big enough to collect substantial revenue is also big enough to have a substantial negative effect on saving and the economy.

In conclusion, although increasing the exemption for the estate tax while retaining a high rate might appear to enhance the progressivity of the tax system, this is not likely correct. True, the typical worker has little reason to know that her weekly paycheck is smaller because of the estate tax. She may never realize that part of the burden of the tax falls on her. But conventional economic analysis suggests that these subtle, indirect effects are real, and critical to understanding the ultimate burden of the tax. As the debate on increasing the estate tax exemption moves forward, policymakers should understand that the putative progressivity of such a step is likely illusory and that reducing the rate would benefit the economy.

Mr. KYL. He concludes that ''any estate tax big enough to collect substantial revenue is also big enough to have a substantial negative effect on saving and the economy. Reducing the rate will benefit the economy.''

The bottom line is this: We are going to have an opportunity to vote yes on cloture to take up the House repeal bill. For those who believe in full repeal, the next vote would be to support full repeal. Presumably, that won't pass. The next thing that will happen—and the majority leader made this crystal clear, and I reiterate this commitment—is that we will have an opportunity then to vote on the proposal that Senator BAUCUS and Senator LINCOLN and Senators BILL NELSON and BEN NELSON and others of us have been working on to provide a substantial exempted amount—$5 million per spouse—capital gains rate to apply to whatever has to be paid. But when an estate hits $30 million, from then on, it gets hit with a 30-percent rate. That is a fair way to help the people at the lower end of the spectrum and yet collect the revenue from those very wealthy estates which we all agree can pay part of this estate tax.

Mr. COBURN. Will the Senator yield for a question?

Mr. KYL. Yes.

Mr. COBURN. A lot has been made that we are going to borrow money to pay for this tax. But the fact is that the amount of money not collected that is owed to the Federal Government is close to $400 billion a year. The other side of that is there is over $200 billion a year that has been proven to be wasteful or fraudulently misspent by this Government, which we condone each year. That is $600 billion.

We would not be debating this tax if we were doing our job in terms of oversight. Just in terms of improper payments, is the Senator aware of the fact that there is over $150 billion a year paid out by the Federal Government to people who do not deserve it, have not earned it, and yet have manipulated the system to get it? I am not talking about poor people; I am talking about contractors. The point I want to make is that we would not even be having a discussion on the principles of this tax because it is not needed because we are not doing our jobs in terms of oversight. There is $600 billion that would put us into surplus by $200 billion right now, including the cost of the war, if we would just do our job. I wondered if the Senator was aware of that.

Mr. KYL. Yes, because of the great work of the Senator from Oklahoma, we have been made aware of that. He has helped to lead the effort to collect this money and save the money the Government is wasting. The Senator knows that we support fully his efforts in that regard and intend to pursue it.

I will conclude my remarks by simply saying that we have an opportunity to do something very historic for an awful lot of folks in this country who deserve the relief. I hope colleagues will give us the opportunity by supporting the cloture motion when that comes up.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Madam President, this is an interesting debate, and in some ways it is very troubling. I wish to talk a little about fiscal policy and where we find ourselves.

It is almost as if this place is disconnected from what is happening. The night before last, I sat in HC–5 until about 1:30 in the morning working on the emergency supplemental appropriation request—roughly $90 billion for Iraq, Afghanistan, and a portion for Katrina. None of it is paid for; it is just emergency spending—$90 billion. This takes us to something close to $400 billion over these recent years, none of it paid for.

Not many weeks ago, we had on the floor of the Senate a proposed $70 billion tax cut. That passed. It wasn't paid for. Just cutting the revenues. I voted against that. So we are spending money without covering it. We are cutting taxes. The gross federal debt will be $8.6 trillion at the end of 2006. We will add over $600 billion to the indebtedness just this year alone in fiscal policy. We will add over $700 billion this

year alone in trade deficits. That is different from the fiscal policy. Combined this year, we likely will be in debt by some $1.3 trillion. Everybody understands this is completely off track and dangerous.

So what is the business today? How about cutting some taxes again? What is going to come behind this? A third tax cut bill coming from the Finance Committee. It is unbelievable. It is almost as if somebody pulled the plug out of the socket, so there is no current coming through here by which people can think straight. You can go to the hometown café or restaurant and folks ask: What do you do next? You are choking on debt up to your neck—$8.6 trillion of fiscal policy debt this year. It is going to increase to almost $12 trillion in the next five years, we expect. So what do we do next? We say we ought to get rid of the ''death tax.''

But there is no death tax, of course. This is a function of a clever pollster, paid handsomely by people with a lot of money to come up with a moniker that would allow them politically to cast this into the water and have it float. My colleague spoke at great length about the ''death tax.'' Clever, interesting, but it doesn't exist.

There is, in fact, a tax on inherited wealth in this country. Very few Americans pay it. Currently, the exemption is $2 million for a husband and $2 million for a wife. If you don't have $4 million in net assets in your family, don't worry about this issue. That is going to $3.5 million apiece, so that is $7 million. If you are not above $7 million, don't worry about it.

By the way, notwithstanding those exemptions, if one spouse dies, the other owns everything—a 100-percent exemption—and there is no estate tax. It doesn't matter what the estate is worth; the other spouse owns it. There is a 100-percent spousal exemption.

This ruse of suggesting that this is a death tax is an unbelievable. The most interesting hoax of all is this small business and family farm issue. I will tell you why it is a hoax. I came to the floor of the Senate twice and offered amendments twice. The last time I offered the amendment, it would have completely repealed the estate tax obligation of any small business and any family farm passed from the parents to the children, the lineal descendants who continued to operate it. If that family business or farm, no matter the size, were passed from the parents to the children, on January 1, 2003, it would have forever been exempt from an estate tax. My amendment would have taken that issue off the table. And 54 Members of the Senate voted against that, including the people here today crying crocodile tears over small business and family farm issues. When they had the chance to do this, they didn't want to. Why? That is not the purpose.

The purpose of this issue is to say to the wealthiest Americans that we want to help you. My colleague said we are going to craft something that is a little bit of a modification. He didn't tell you that the modification would lose some 80 percent of the money. But his real interest and the interest of most of the folks who are speaking is to repeal the death tax, which doesn't exist.

Now, we are at war, up to our neck in debt—$8.6 trillion in debt, heading toward $12 trillion in debt—with a budget policy that is completely out of control and a trade policy that is wildly out of control. What do those who have the majority in this Chamber decide they ought to do? The President, the majority in this Chamber and in the House—what is their next step? It is to cut taxes for the wealthiest Americans.

Let me tell you what Warren Buffett says about this. He is an interesting guy. He is the second richest man in the world but a really public-spirited man. He said, ''If this is class warfare, my side is winning.'' He doesn't approve of this; he thinks this is nuts. He has an estimated worth of $42 billion. He said:

> I personally think that society is responsible for a very significant percentage of what I have earned. If you stick me down in the middle of Bangladesh, or Peru, or someplace, you will find out how much this talent is going to produce in the wrong kind of soil.

Being here is what allowed him to be successful, he said. He said, by implication, that we owe something back.

We are at war, and my colleagues have decided that the pressing priority is to remove the tax burden from the wealthiest people in this country, the ones worth billions of dollars. Franklin Delano Roosevelt said in one of his fireside chats—this in another age when we were at war:

> Not all of us can have the privilege of fighting our enemies in distant parts of the world. Not all of us can have the privilege of working in a munitions factory or a shipyard, or on the farms or in the oil fields or mines, producing the weapons or raw materials that are needed by our Armed Forces. But there is one front and one battle where everyone in the United States—every man, woman, and child—is in action. . . . That front is right here at home, in our daily lives, and in our daily tasks. Here at home everyone will have the privilege of making whatever self-denial is necessary, not only to supply our fighting men, but to keep the economic structure of our country fortified and secure. . . .

Do you see any urge at all by the majority here, by the White House, to call this country to action for some public spiritedness, about what we need to do together? We have soldiers dying on the battlefield, and we are sitting downstairs in the Capitol Building until about 1:30 in the morning appropriating money for those soldiers for their munitions, for their trucks and tanks and battleships, and we will not pay for it. The majority party says we will not pay for it. Even as we spend money, we won't pay for it. But we see that their highest priority is to cut taxes for those who are very well off.

The wealthiest 1 percent of Americans now own a bigger piece of the pie than the poorest 90 percent added together. That gap is growing. This legislation will once again decide to expand the inequality of income in this country.

Let me say this again. Those who come to this floor talking about small businesses and family farms had a chance to vote for the repeal of any estate tax obligation for any transfer of any family-owned business or any family-owned farm, and that full repeal would have been effective on January 1, 2003; and 54 Members of the Senate voted no. I daresay almost everybody speaking today in support of this legislation because they believe it will help family farms and small businesses, when they had the chance to do it, they voted against it.

And that tells you a little something about what is really at stake.

Has anybody here ever seen a hearse pull a U-Haul? Don't think so. You can't take it with you. We are on this Earth for a relatively short period of time. We are blessed to live here, a unique spot on this planet. And this, in my judgment, requires of us some responsibilities.

Oh, I know some don't want to lose anything. They want to take it all with them. But you can't take it all with you. The question is: Should at least some of the largesse that those who have been most successful in this country have accumulated in this lifetime bear a tax because most represent an accumulation of assets that never ever bore a tax? Growth appreciation of stocks that has never been taxed, should that not also contribute to this country's defense and well-being? The answer is yes.

I hope we decide to do the right thing and reject this proposal.

Mrs. FEINSTEIN. Madam President, I rise to oppose this bill. With an $8.4 trillion national debt, a budget deficit that will exceed $300 billion this year, a looming entitlement crisis, and a mounting alternative minimum tax problem, full repeal of the estate tax at this time is simply not responsible.

We have until 2010 to make decisions about the estate tax. In doing so, time will afford us the opportunity to make more informed choices, with a more complete picture of our Nation's fiscal health.

We are talking about eliminating nearly $1 trillion in Federal revenues here, during a time of war.

Now is not the time to place the interests of a small number of millionaires ahead of millions of working families.

The estate tax is already being gradually phased down under current law. By 2009, only estates valued at more than $7 million per couple—$3.5 million per individual—will owe any estate tax at all. This means that only 3 of every 1,000 people who die would have an estate large enough to owe any Federal estate taxes.

Permanently eliminating the estate tax would cost $402 billion over the

next 10 years, 2007 to 2016, though it is important to note that this figure only captures the cost of 5 years of full repeal, from 2011 to 2016.

When all costs are included, nearly a trillion dollars will be lost in the first decade following repeal, from 2012 to 2021. Included in this staggering figure is $213 billion in increased interest payments on the national debt.

Federal revenues are already insufficient to fund our Nation's most critical domestic priorities.

I wish things were different, allowing a vote in support of reforming the estate tax to be cast today in good conscience.

Let me be clear. I am no fan of the estate tax. I understand how hard families work to provide opportunities and a better future for their children. Transferring assets from generation to generation motivates families to work even harder. It is unfair to place unreasonable burdens on small businesses and families seeking to provide for future generations.

I am deeply concerned about California's families who own farms and small businesses. Like many of my colleagues, I worry that they may be forced to sell a primary residence just to pay the estate tax. Our laws should not create even more hardship at a time when someone has lost a loved one.

Yet, as we consider estate tax repeal today, our Nation's fiscal outlook and the potential impact of this administration's policies are uncertain. This President has broken with his predecessors by submitting only 5-year budgets.

Why, you might ask? Especially after we were presented with the traditional 10-year numbers during this President's first year in office. The answer is that these tax cuts explode the debt and deficit in the outyears—the end of the 10-year window.

The President's tax cuts have already cost more than $1 trillion, and those enacted will be more than $3 trillion over the next decade.

Republicans just passed another round, with the lion's share once again going to the very wealthy—$50 billion to extend capital gains and dividends tax breaks over 10 years.

The Federal budget deficit will be at least $300 billion this year. The national debt is soaring. And we are at war. Never before have such expansive tax cuts been enacted or continued during a time of war.

Over the next 10 years, the debt is projected to reach nearly $12 trillion. In this year alone, our national debt is slated to increase by $654 billion. More startling is the fact that the national debt is currently more than 66 percent of our gross domestic product, GDP. The total debt equates to roughly $30,000 owed by every American citizen.

When you combine the cost of the tax cuts with spending for the war in Iraq—currently totaling $370 billion—the inevitable result is that the domestic programs that matter most are squeezed.

For example, the President's fiscal year 2007 budget makes significant cuts to programs such as food stamps, cut by $272 million; food assistance for seniors and children, cut by $111 million; COPS, which put over 118,000 police on the streets nationwide, is being cut by more than $407 million, or 15,000 officers nationwide; first responders—within Department of Homeland Security—by $573 million or 25 percent; firefighters—firefighter grant program, within Department of Homeland Security—by $355 million; Job Corps—an education and job training program for youth—by $55 million, resulting in 1,000 fewer at-risk youth being served; mass transit, by $100 million; safe and drug-free schools State grants, by $346 million; and education—the President's signature education program, No Child Left Behind, would be underfunded this year by more than $15 billion and $55.7 billion since it was enacted.

Let me explain. Most of the money the Federal Government outlays in a given year is currently not controllable. It is spent on what are called entitlements—Social Security, Medicare, Medicaid, veterans benefits. If you are entitled to these benefits, you get them.

And if you add interest on the debt—nearly $400 billion in 2006—that is about 60 percent of everything spent in a given year. So that leaves 40 percent, half of which is the defense budget and half is everything else.

There is a war going on, so it is very difficult to cut defense spending.

So while a select few are benefiting from massive tax breaks, budget cuts must be made—to the programs many Americans rely upon—to prevent uncontainable deficits.

There is a fundamental shift taking place. Republicans have become the profligate spenders, while Democrats have become the deficit hawks.

Americans deserve more responsible leadership. Leadership is about planning for the future and making the difficult decisions that ensure economic stability for our children and their grandchildren.

With the threatening fiscal demands of baby boomers retiring and the pending insolvency of Medicare in less than two decades, repealing the estate tax today would be inconceivably shortsighted.

I urge my colleagues to employ sensible leadership and understand the responsibilities we have to uphold. We have a responsibility to working families, veterans, senior citizens, children, and low-income communities.

No one will deny that this issue needs to be revisited in the coming years. We must adopt a balanced estate tax compromise, while holding the line on spending in order to restore a program of fiscal sanity. I look forward to working with my colleagues to protect small businesses and family farms, without unreasonably jeopardizing our Nation's financial well-being and our ability to help those who need Congress most.

In the meantime, I urge my colleagues to do what they know is right: encourage a more responsible fiscal course and stand in opposition to full repeal of the estate tax at this time. This is the wrong policy at the wrong time.

Mr. MCCONNELL. Madam President, nothing could place more stress on a family than the loss of a loved one. Yet at such a difficult time, too many families in America today must make decisions about selling a business or a farm that has been in the family for generations in order to pay estate taxes, or, as they are more commonly called, death taxes.

That is wrong. That is why I support the repeal of the death tax—immediately, completely, and permanently. No American family should be forced to visit the undertaker and the tax collector on the same day.

We have made important progress towards eliminating this onerous tax under President Bush's leadership. In 2001, Congress began phasing out the death tax, and will phase it out completely in 2010. Yet because of our budget rules, the death tax will return in full force in 2011.

Starting in 2011, many small-business owners and their families may be unfairly penalized if we do not eliminate the death tax. We can change that by repealing one of the most destructive, unfair taxes ever conceived by government. Let's kill the death tax forever.

We ought to kill it especially on behalf of America's small businesses, the lifeblood of our growing economy. From their successes come the new jobs of today and the economic growth of tomorrow. Yet the death tax often hits small businesses the hardest.

Today, we see a dogged minority working again to keep death and taxes not just inevitable, but inseparable. But death and taxes are a destructive tag team for our economy, because the death tax destroys small businesses.

My colleague the Democratic leader said recently that during a trip home to his native Nevada, not a single one of his constituents spoke to him about the repeal of the death tax. I think he took this as some kind of proof that we should not address this issue.

Well, I want to bring to my colleagues' attention a Kentuckian who did approach me about this issue last week, when I was at the Perry County Civic Night at Hazard Community College in Hazard, KY, on May 31.

I spoke with a constituent named Bill Fields. He is the co-owner of Perry Distributors Inc., a beer distributor. Without permanent relief from the death tax, he is unable to plan for the future of his business and his family.

Bill is the third generation of his family to be active in the business, and his parents are still active in it as well. Right now, the Fields family has to pay between $15,000 and $25,000 a year

for an insurance policy, just in the event that Bill's parents pass on and the family is hit with this massive death tax.

And even at such a high cost, that policy will not cover the full tax burden. Bill estimates it will only cover about 20 percent. He would have to borrow to pay the rest.

Bill says: ''The way things are now, nobody knows what to do with estate planning.'' It's a shame, but it is true.

Now, Bill is still a young man—he is 43—with plenty of working years left in him. But one day, he will want to pass on his business to his heirs.

Unless we act, after Bill passes away, his family may have to sell the business he worked so hard to build during his lifetime just to pay these burdensome taxes. Bill's family faces the same dilemma as too many other Kentucky families who own small businesses.

Before I conclude my remarks, I want to bring to my colleagues' attention an excellent column in this Monday's Washington Post by the Senator from Alabama, JEFF SESSIONS, titled ''. . . Or Unfair Burden on Families?''

The Senator from Alabama rightly says, ''The death tax is almost dead. Let's put the stake in its heart.''

I commend my colleague Senator SESSIONS for writing so cogently and persuasively on the pernicious effects of the death tax. I ask that his column be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 5, 2006]

''. . . OR UNFAIR BURDEN ON FAMILIES?''

(By Jeff Sessions)

This week the Senate is expected to vote on permanent repeal of the estate tax. With this vote, Congress will have an opportunity to finish the job it started five years ago.

The estate tax—or, as many of us prefer to call it, the death tax—is a tax imposed on the transfer of assets or property from a deceased person to his or her heirs. This is one of the IRS's most painful taxes, as it hits families at the worst possible time, when they are dealing with the death of a loved one.

Congress passed a gradual phaseout of this tax at the urging of President Bush in 2001, and it was scheduled to disappear in 2010. But because of the peculiarities of the lawmaking process, the death tax will return in 2011—at the same high rates that existed before—unless Congress enacts new legislation. In April 2005 the House passed a permanent repeal of the death tax by a vote of 272 to 162. Over a year has passed since; it is time for the Senate to act:

The list of reasons for eliminating the death tax is long. To begin with, this tax punishes thrift and saving. It tells people that it's better to spend freely during their lifetimes than to leave assets for their children and grandchildren, which will be taxed heavily by the federal government.

The death tax hits hardest at heirs of small-business owners and family farmers. In many cases, the heirs cannot afford to pay the tax and are forced to downsize, layoff employees or even sell their business or farm.

There can be no doubt that closely held family businesses that are growing and beginning to compete with the big guys are often devastated by the tax. I believe the death tax is a major factor in business consolidation and loss of competition.

This tax hurts the growth of minority-owned businesses. As the first generation of African American millionaires begins to die, many of the companies they founded will have to be sold to pay the estate taxes. For example, the tax almost forced the oldest African American-owned newspaper—the Chicago Daily Defender—out of business.

According to Heritage Foundation economists, the death tax also costs the American economy 170,000 to 250,000 potential jobs each year. These jobs are never created because the investments that would have financed them are not made, as these resources are diverted to pay for complex trusts and insurance policies to avoid the tax.

The death tax is double taxation. Most of the assets taxed at death have already been taxed throughout an individual's lifetime.

The death tax accounts for a small portion of federal government revenue, an expected $28 billion in 2006, or only 1.2 percent of federal receipts.

Many argue that repealing the death tax would decrease charitable giving, as this tax allows individuals to deduct gifts to charitable organizations. Yet, even though the phasing out of the death tax began in 2001, charitable contributions in the United States reached a record high in 2004.

The death tax even has a negative effect on the environment, as heirs are often forced to develop environmentally sensitive land to pay the tax. According to a study by researchers from Mississippi State University and the U.S. Forest Service, about 2.5 million acres of forest land were harvested and 1.3 million acres were sold each year from 1987 through 1997 to pay the estate tax.

Finally, the American people already understand the unfairness of the death tax and support its repeal. Sixty-eight percent of those surveyed in a recent poll commissioned by the Tax Foundation supported repeal of the estate tax. Moreover, the death tax was rated by Americans in the same survey as the least fair tax.

As a vote approaches, it is essential that constituents let their representatives hear now how unfair they believe this tax is. The death tax is almost dead. Let's put the stake in its heart.

Mr. ENZI. Mr. President, I want to take this opportunity to voice my support for H.R. 8, the Death Tax Repeal Permanency Act. Since coming to the Senate, I have continuously supported the repeal of this burdensome and unfair tax and am also a proud cosponsor of S. 420, the Death Tax Repeal Permanency Act and S. 988, the Jobs Protection and Estate Tax Reform Act.

I believe the death tax is fundamentally unfair because it constitutes another layer of taxation. After years of paying State and Federal income taxes and other taxes on property while trying to grow a business, the family must pay again at the time of death. This double taxation is unfair and should be eliminated.

Many small, family-owned businesses throughout my State of Wyoming cannot afford to pay the tax and are forced to close their doors. In addition, many landowners are forced to sell their property in order to afford paying this unfair tax and avoid passing on the costs to the next generation. Our country should encourage growth and investment, not force people to sell their assets. Families should not have to choose between paying taxes or operating their business just because a family member passed away. In Wyoming, we work hard, in pursuit of the American Dream, to create a better life for our children and grandchildren. Yet the death tax punishes this dream and the families who must pick up the pieces after losing a loved one.

The death tax not only hurts the families who are forced to pay the tax, it also hurts our overall economy. A Heritage Foundation study reports that repeal of this tax would create 482 jobs in Wyoming alone. While this number may not seem large to my colleagues from New York and California, 482 jobs would have a substantial economic impact for communities throughout my State. I believe we will see additional financial gains when businesses can continue their operations where previously they would have had to shut their doors.

The death tax forces families to spend thousands of dollars on estate planning. By forcing individuals and families to use vital financial resources on estate planning, money is being taken away from the family business or the family farm. When we eliminate this tax, jobs will be saved and money will be devoted to economic growth rather than extensive estate planning costs.

I urge my colleagues to support the passage of H.R. 8, which offers relief to America's hard-working families. Eliminating the death tax will bring fairness to our Tax Code as well as encourage continued growth in our economy.

Mr. OBAMA. Madam President, I rise to speak in opposition to the complete repeal of the estate tax.

First of all, let call this trillion-dollar giveaway what it is—the Paris Hilton tax break. It is about giving billions of dollars to billionaire heirs and heiresses at a time when American taxpayers just can't afford it.

My colleagues on the other side of the aisle have brought out the Paris Hilton tax break in June because they are eager to make it an election issue in November.

And I think that is fine. In fact, I am eager for the American people to choose. Because if people want their Government to spend $1 trillion—an amount more than double what we have spent on Iraq, Afghanistan, and the war on terror combined—on tax breaks for multimillionaires and multibillionaires, then the Republican Party is their party.

If the American people want to borrow billions more from foreign countries, spend billions more in taxes to pay the interest on our national debt, and watch billions cut from health care and education and gulf coast reconstruction, then the Paris Hilton tax break is your tax break.

Now let's be honest. This is not about saving small businesses and family

farms. We can reform the estate tax to protect the few farms that are affected. We can set it at a level where no small business is ever affected. We can even repeal the estate tax altogether for the 99.5 percent of families with less than $7 million in taxable assets—that means families with assets almost 100 times greater than the average American household net worth.

Democrats have offered to reform the estate tax in these ways time and time again. Reform is possible in a way that doesn cost $1 trillion.

But our offers have always been refused, which can only mean that the party in power is really interested in an unprecedented giveaway to the wealthiest of the wealthy.

And don't think for a minute that there is any plan to pay for this. Every proposal to enforce pay-as-you-go rules for fiscal responsibility has been rebuffed. This tax cut will have to be paid for in the years ahead by higher taxes on working families and reduced public services in all of our communities. This tax cut will have to be paid for by higher interest rates on homes and student loans. This tax cut will have to be paid for by greater dependence on foreign countries. Alan Greenspan warned us against financing tax cuts with debt. But that is exactly what this bill does.

So I would ask the American people one question. At a time like this—a time where America finds itself deeply in debt, struggling to pay for a war in Iraq, a war in Afghanistan, security for our homeland, armor for our troops, health care for our workers, and education for our children—at a time of all this need, can you imagine opening Forbes magazine, looking at its list of the 400 wealthiest Americans, and realizing that our Government gave the people on that list far more than half a trillion dollars worth of tax breaks?

I know I can imagine that. And I would bet that most Americans can imagine that either.

This is shameful. Are we really going to cut taxes again for the Forbes 400 before we fix the alternative minimum tax which affects middle-class families? Are we really going to cut taxes again for multimillionaires and billionaires before we extend the expiring child tax credit which helps working families? Are we really going to worsen our country's financial future for all Americans just so that a tiny number of the estates—estates that average over $13 million—can escape all taxes?

There is no economic justification for repealing the estate tax and certainly no moral justification. This is politics pure and simple.

So if the Republicans want to bring up their Paris Hilton tax break to use it as an election issue later, I say go for it. Because I can think of no better statement about where and how we differ in priorities than that.

Mr. HARKIN. Madam President, I am dumbfounded that the Senate is debating yet another gigantic tax break for the wealthiest people in our society. The Republicans are pushing this latest giveaway despite the fact that we are facing a deficit, this year, in excess of $300 billion a year, despite the fact that they have run up $2 trillion in new debt since President Bush took office, despite the fact that they have increased spending by 25 percent in just 5 years' time, and despite the fact that we are spending $10 billion a month on seemingly endless wars in Iraq and Afghanistan.

The level of irresponsibility is just breathtaking. This is a tax break we cannot afford, benefitting people who don't need it. Currently, the estate tax impacts far less than 1 percent of the wealthiest families in America. And you can be sure that these are not families facing economic hardship or struggling to make ends meet.

Repeal of the estate tax would not create a single new job. It would do nothing to increase productivity or competitiveness. It would do nothing to improve the education of our children or the general well-being of the American people. No, this is a pure and simple giveaway—a bonanza for those who have already received the lion's share of the tax breaks passed over the last 5 years.

And let's be clear: There is nothing conservative about handing out tax breaks costing nearly $1 trillion, including interest, over 10 years and passing the bill to our children and grandchildren.

In his State of the Union speech 3 years ago, President Bush made this statement: ''We will not deny, we will not ignore, we will not pass along our problems to other Congresses, to other presidents, and other generations.'' But that is exactly what repeal of the estate tax would do. It would add hundreds of billions of dollars to the already-massive debt that President Bush is passing on to ''other generations.'' This is not only irresponsible and reckless; it is just plain shameful.

Average family farmers are being told that they need repeal of the estate tax to save them from a large burden, perhaps losing their farm to pay the tax. But this is pure propaganda. It is simply not true.

The Congressional Budget Office analysis of estate tax returns from the year 2000 showed a very different picture. It showed that if we provide a $2 million exemption, $4 million for a married couple, which is the law for this year, only 123 farm-dominated estates would have had to pay any estate tax. That is a mere 123 farm-dominated estates in the entire United States. The details of the study note that, of those farm-dominated estates, only 15—15 in the entire United States—would not have sufficient liquidity to pay the tax. Only those 15 might have to sell land—though I doubt it. Large farm operations have a range of financial options to fall back on. Moreover, as a Washington Post editorial pointed out yesterday, family farm and business estate ''heirs can spread estate tax payments over 14 years, so even those without liquid assets have plenty of time to take over the farm or firm, manage it productively, and thus generate the cash to pay the tax.''

Neal Harl, one of the Nation's most respected lawyers and agricultural economists, knows of no instance where a farm has had to be sold because of the estate tax. Iowa Farm groups supporting estate tax repeal have not been able to identify even one instance, so far as I am aware.

There are, indeed, some family-business-dominated estates that would have to pay some estate tax. According to the Congressional Budget Office, at the current level of exemption, there are 135 estates. Only 135 estates in the entire Nation. So why is the Senate wasting precious legislative days addressing an issue affecting only 135 estates?

There is little question that the great majority of Senators—including myself and many other Democrats—would be in favor of passing a reasonable compromise, for example a permanent exemption of at least a $2 million for an individual, $4 million for a couple that is the current exemption.

Of course, I don't want to minimize or dismiss those few instances where real farmers and small business people might have difficulty paying the tax. I do believe that it should be possible to pass family farms and family businesses from one generation to the next. Bear in mind, however, that we have had substantial estate taxes for a long time. And, the reality is that many of those who face the current tax had parents who passed on those same businesses with higher rates than they face today.

There is little question that the great majority of Senators—including myself and many other Democrats—would be in favor of passing a reasonable compromise, for example a permanent exemption of at least a $2 million for an individual, $4 million for a couple. But I challenge my Republican colleagues to tell us how they intend to make up for the revenue that would be lost if a full repeal of the estate tax is passed. The difference between a $2 million exemption and full repeal is about a half trillion in the decade after 2011. How do the Republicans propose to offset that lost revenue? What do they propose to cut? Social Security? Medicare? Education? National defense? What other taxes would they increase? Or do they intend to simply pass on another half trillion in debt to our children and grandchildren?

Based on the record of the last 5 years, the most likely option is that the debt would simply be passed on to future generations. Since President Bush took office, we have already piled up nearly $2 trillion in new debt.

It is hard to believe, but just 6 years ago, before President Bush took office, we were running huge budget surpluses. We faced the very real prospect

of completely eliminating the national debt within the decade. But those bright prospects have been squandered in reckless tax cuts and out-of-control spending. We are now running record deficits. The debt tax will rise from about $600 for every man, woman, and child in America in recent years to more than $1,000 per person in 2010 according to the President's most recent budget submission.

How in the world can any responsible person who cares about the fiscal health of our Nation allow this to happen? How can anyone who believes in maintaining a ladder of economic opportunity for future generations—how can we instead saddle those future generations with a debt burden of this magnitude?

As President Kennedy said, ''to govern is to choose.'' If you vote to support this estate tax repeal, who exactly are you choosing to help? Well, according to Congress Watch, and United for a Fair Economy, just 18 families are in the forefront of those demanding this repeal. Those 18 families, with over $180 billion in accumulated wealth, stand to gain more than $70 billion in reduced taxes in the coming years if the estate tax is repealed. They have been spending huge sums for lobbyists and media campaigns. And if they succeed in avoiding paying $70 billion in taxes, then who will get stuck with the bill?

Of those 18 families, the biggest single beneficiary of full repeal would be the Walton family, which owns a lion's share of Wal-Mart. That one family may save as much as $30 billion.

I reject that choice. I reject giving away another half trillion dollars in tax breaks to those who have already been showered with fabulous wealth and good fortune. If we are going to pass new tax breaks, let's focus on working Americans who actually need them, beginning with working parents struggling to raise their children and pay college tuition.

Last month, I met with Warren Buffet, a multibillionaire and a very savvy judge of the economy and business. He said that he is working to shift some of his investments away from the dollar. He believes that the estate tax is good public policy, and he believes that a Nation that recklessly cuts taxes while racking up huge budget and trade deficits is heading for big, big trouble.

We need to come to our senses. Let's freeze the tax where it is, or let's consider a somewhat higher exemption, perhaps $4 million per couple. But let's reject the notion that huge estates should be passed on at a tax rate lower than what hard-working people pay on their earned income.

In any case, it is unacceptable that we on the minority side of the aisle are being denied an opportunity to propose reasonable compromise alternatives. We should not move to consider this bill until we have an agreement that Senators can have an open debate, with amendments offered and voted on by each side. And if we cannot receive such a guarantee, we should vote to reject cloture.

Madam President, this bill to repeal the estate tax would give away a half trillion dollars, as compared to the law for this year. It would give away money we don't have, overwhelmingly to people who don't need it, and it would pass the resulting debt to people who haven't even been born yet. This bill, in its current form, is reckless and irresponsible. I urge my colleagues to vote against cloture. This bill certainly shouldn't go forward until we have a fair, balanced proposal allowing amendments to the bill.

Mr. ALEXANDER. Madam President, I wish to express my support for a full and permanent repeal of the death tax. This is an issue of tax fairness. The death tax can consume up to half of the deceased owner's estate. Many assets that are subject to the death tax were already taxed during the life of the deceased through income taxes, property taxes and other levies. Imposing another tax on someone's estate at the time of his or her death is a grossly unfair form of double taxation.

In 2001, Congress passed a phase-out of the estate tax with full repeal effective in 2010. If Congress does not act soon, the law will revert back to where it was prior to 2001, placing an enormous tax burden on family-owned farms and small businesses. Some families would be forced to sell the farm or business they have just inherited to pay the enormous death tax bill. This goes completely against the American dream of working hard, growing a business and some wealth, and leaving the fruits of your labor to your children.

Some argue that death tax repeal only would benefit the very wealthy. During this debate we have heard names like Bill Gates and Donald Trump. However, the death tax has a major impact on a lot of Americans who aren't household names. For example, I want to talk about Clint Callicott from Williamson County, TN. Clint's family farmed on land in Williamson County that his father owned and then Clint inherited. The farm's value began to increase due to economic growth and development in the county, so at the time his father passed away the land was worth over $1 million. Clint was forced to sell the family farm against his wishes in order to pay the large death tax, and the Callicott family had to relocate to another county.

This unfortunate story illustrates the negative effect the death tax can have on family farms and small businesses, and this example is only one of many. In Alcoa, TN, Dick Daugherty and his wife tried to plan for the impact of the death tax in the early 1990's by hiring a very expensive estate lawyer. Their hope was to preserve their family farm for their children, and they went so far as to take out an insurance policy with significant premiums to ensure there would be enough cash when the time came to pay the death tax bill. However, today the value of the farm land has increased so much due to development in the Alcoa area that—despite their best efforts to plan ahead—it now looks unlikely that the Daugherty sons will be able to afford to hold on to the land that has been in their family since 1871.

Clearly, there is something wrong with a tax system that forces people off the land that has been in their family for generations. And it is just as wrong when the tax system makes it harder for family-owned small businesses to succeed. According to one study, less than 30 percent of these small businesses survive to a second generation and only about 13 percent continue to a third generation. These small businesses face enough hurdles as it is without Uncle Sam imposing yet another obstacle in the form of the death tax.

Supporters of keeping the death tax claim that repeal would be too costly for the Treasury. However, over the last 10 years the death tax only has accounted for about 1.3 percent of all Federal tax revenue. In addition, the ''costs'' of repeal have been overstated because estimates fail to account for estate planning and compliance costs, the tax revenue lost when a farm or business ceases operation due to the death tax burden, or the economic growth and job creation that would be generated by freeing up capital for investment.

I mentioned the burden of estate planning and compliance costs, and wanted to share another example from my home State of Tennessee. The Anderson Family operates a crop and beef cattle farm. Mr. Anderson recognized the need for estate planning and formed a family partnership that allowed him to pass on his farm assets to his children during his lifetime. This plan is likely to minimize the impact of the death tax, and will increase the chances that the Anderson children will be able to hold onto the family business. However, the considerable legal and accounting costs involved in forming this partnership could have been better utilized elsewhere in the family business.

It is staggering to note that as much as $847 billion over the last several decades has been diverted from the economy for estate planning and compliance costs, according to a Joint Economic Committee study. Estate planning can cost individual families as much as $150,000. This money could be put to better use if it were invested in creating jobs growing our economy. According to the Heritage Foundation, it's estimated that the Federal death tax alone is responsible for the loss of between 170,000 and 250,000 potential jobs each year.

We want a tax system that encourages growth and prosperity, not one that acts as a job killer. However, anticipation of the death tax's impact on one's heirs causes many people to stop working at an earlier age, to reduce

the amount of saving and investing, and to cut back on their entrepreneurial activities. Once these Americans reach a certain age, there is less incentive to further build up the estate because that simply increases the tax burden for the loved ones they leave behind.

That is not the right message to send. We should encourage the creation of jobs, new ideas, and new investment in our country. We should encourage our citizens to continue to strive for the American dream of working hard, building up their assets, and passing them on to future generations.

I am disappointed that efforts to repeal the death tax have been blocked in the Senate for the last few years, and I hope Congress will enact a full and permanent repeal.

Mr. LEVIN. Madam President, this bill to repeal the estate tax is unfair and unaffordable. Full repeal is estimated by the Joint Committee on Taxation to cost $776 billion over the first 10 years it is in full effect. And in fact that cost would be nearly $1 trillion when interest payments on the extra debt that would be required are taken into account.

Repealing the estate tax would only benefit a tiny percentage of the very wealthiest Americans among us by enabling them to pass additional millions of dollars to their heirs tax-free. It would shift an even larger share of the Nation's tax burden and debt onto the backs of average working families and our children and grandchildren.

Only a tiny fraction of estates pay the estate tax. In 2004, only 1 percent of estates in Michigan and 1.2 percent nationwide paid any estate tax. In 2006, those numbers will likely be even smaller because each individual's exemption from the estate tax will increase from $1.5 million to $2 million, with those numbers doubled for married couples. In fact, it is estimated that in 2006, just one-half of 1 percent of all estates will owe any estate tax. This percentage will continue to shrink as the exemption level rises. By 2009, when $3.5 million—$7 million for married couples—will be exempt, only three out of every 1,000 estates will owe any estate tax; that's one-third of 1 percent.

Why are the Republican leaders pressing this? Over the last decade, a massive public relations campaign funded by a handful of families has succeeded in creating the mistaken impression that the estate tax catches millions of average Americans. According to a recent report by two nonprofit organizations, Public Citizen and United for a Fair Economy, 18 families worth a total of $185.5 billion quietly financed and coordinated a 10-year effort to repeal the estate tax. The report tells how these families spent over $200 million contributing to political campaigns, financing outside lobby groups and trade associations, and creating a massive anti-estate tax coalition that served as the main coordinator of the repeal campaign.

The advocates of repeal have not been forthcoming about the billions they would save if the estate tax were repealed, but instead they have promoted stories about the effects of the estate tax on family farms and small businesses. Such family-run enterprises make up the core of the American economy and society, so it is no surprise that using them as the poster children in the campaign for repeal has been met with some public relations success. The well-funded initiative has left many with the mistaken impression that the estate tax requires many small businesses and family farms to be sold to cover the estate tax bill.

Few, if any, examples of that are ever offered, but no matter. The disinformation campaign continues. What is the reality? According to data from the Tax Policy Center, of the 18,800 taxable estates in 2004, there were only 440—or two percent—in which farm or business assets made up at least half the total value of the estate. Forty percent of these 440 farm and business estates were valued at less than $2 million and paid an effective tax rate of only 1.6 percent.

According to the Congressional Budget Office, at the upcoming exemption level of $3.5 million, only 200 farms in the year 2000 would have had to even file the estate tax, and fewer than 15 of those estates would have lacked sufficient liquidity to pay the estate tax.

From these numbers, it is clear that an exemption level and other safeguards can be set to keep effectively all small businesses and family farms from having to sell their businesses to pay the tax. That is why I hope that at some point in the near future we will be able to adopt a commonsense proposal to permanently set an appropriate, inflation-adjusted exemption level.

But proceeding to this bill at this time would not achieve that goal. The majority has indicated that if we proceed to debate this bill, consideration would be limited to a small number of predetermined amendments, each of which would set the tax rate on inherited wealth lower than the tax rate on workers' wages. Giving tax preference to inheritance over workers' wages is not the American way.

Furthermore, in the face of mounting deficits, adoption of any of the so-called compromise amendments being talked about would be fiscally irresponsible and would unfairly burden average taxpayers to make up the difference in lost revenue from the Treasury. The proposal endorsed by Senator KYL would still cost eighty-four percent of the cost of full repeal.

The estate tax was created not only to raise revenue but also to prevent the concentration of wealth in the hands of just a few families. It ensures that those who prosper so greatly in the American economic system do their fair share to contribute to our continued national well-being. Just like other Americans, the very wealthy benefit from public investment of tax dollars in areas such as defense, homeland security, environmental protection and infrastructure, and they rely even more than others on the Government's protection of individual property rights. The estate tax is not intended to discourage people from seeing to it that their children are more secure, but rather, it is aimed at helping keep avenues of opportunity open to all citizens. In the words of President Teddy Roosevelt, who proposed the estate tax: ''[I]nherited economic power is as inconsistent with the ideals of this generation as inherited political power was inconsistent with the ideals of the generation which established our government.''

We should make sure that our current and future tax policies consider not only the value to taxpayers of their take-home pay or accumulated wealth, but also the value to them of the essential government services that are funded by their taxes. It is not a popular thing to talk about these days, but our Nation relies on and needs tax revenues. Every day in Iraq and around the world our military needs tanks, aircraft carriers and protective body armor. We need scientists working toward cures for cancer, Alzheimer's disease and birth defects. We need teachers to educate our children so they can keep our Nation economically competitive in the next generation. We need USDA personnel to screen our meat and livestock for mad cow disease and harmful toxins. We need Government grants to help buy bulletproof vests for the cops on our streets. We need dollars to build new bridges and highways to relieve congested traffic, as well as dollars to repair potholes in existing roads.

On top of these things and many others we already appreciate, there are many other important initiatives: lowering the spiraling cost of healthcare so that all Americans can get the care and medicine they need, improving our education system so that every child grows up prepared to make a valuable contribution to our society, investing in leap-ahead energy technologies that will boost our auto industry and help end our dependence on imported oil, preserving our irreplaceable natural resources, and protecting the jobs provided by our Nation's manufacturers.

If we are to have any hope of paying for even a few of these priorities, eliminating the estate tax for the extremely wealthy is exactly the wrong thing to do. We are running record deficits and we are fighting a war in Iraq. We simply cannot afford such a massive tax cut which would push us even further into the deficit ditch. Today, each American citizen's share of the debt is almost $28,000, and as we continue to run up record yearly deficits, the country's total debt is estimated to reach over $12 trillion by 2016, which is $39,000 per person. It is not just reckless fiscal and economic policy to saddle future generations with this kind of crushing

debt burden; it is morally reprehensible to pass this kind of burden to our children and grandchildren.

We need to look out for all of our citizens, not just the few who are extraordinarily wealthy. I cannot agree with policy changes that favor a handful of multimillionaires, one-third of 1 percent of our people who are the very wealthiest, at the expense of working American families and of critical national priorities. That is why I am opposed to repealing the estate tax.

Mr. KERRY. Madam President, today we are debating repeal of the estate tax. Many of us have supported reform to the estate tax in a reasonable way that will help families keep their small businesses and farms. But this debate about repeal of the estate tax has become unreasonable and fiscally irresponsible.

Some in the Republican majority are calling for full and permanent repeal of the estate tax and have referred to the estate tax as ''immoral'' and ''vicious.'' I disagree. Only very wealthy Americans will benefit from the proposal before us today. It is a proposal that does not reward work, entrepreneurship, or innovation.

I also wonder why we are debating this today. The estate tax debate was postponed last fall because of Hurricane Katrina. New Orleans is still recovering and all signs point to the region being in dire need of more Federal assistance in the months to come. I believe it is still an inappropriate time to debate the estate tax. Congress just passed a $70 billion tax cut that will give those with an income of $1 million an average tax cut of $43,000. Additionally, we have had troops in Afghanistan since October of 2001 and in Iraq since March of 2003. This is a time for sacrifice, not time for another debt financed tax cut for the richest Americans.

Congress is not sending the right message by debating the repeal of the estate tax when soldiers are risking their lives and many citizens are still left homeless by Hurricane Katrina. The estate tax is simply the wrong priority.

Only a few wealthy Americans will benefit from repeal of the estate tax, but it will harm many. Repeal hurts tens of millions of Americans by shifting even more of the tax burden from those who hold wealth to those who work day in and day out to earn a paycheck. Since the proposal is not paid for, it hurts our children and grandchildren by creating billions in debt and interest that they will have to pay for. According to the Center on Budget and Policy Priorities, the total cost of repealing the estate tax for a decade would be nearly a trillion dollars. This revenue could be well spent on essential initiatives such as rebuilding the areas devastated by Hurricane Katrina, our national defense, children's health care, equitable tax reform or paying down the debt.

Repeal of the estate tax hurts millions of working families who need Congress to resolve far greater problems in our tax code, like the punishing and expanding alternative minimum tax, AMT. The AMT is levied on taxpayers merely because they have children and happen to live in particular States. Yet according to the majority leader, the estate tax—which is levied on individuals who will inherit at least several million dollars—is the ''cruelest and most unfair tax.'' I don't see the logic in that argument and I am confident the American people can see through it as well.

My colleagues on the other side of the aisle argue that estate tax repeal is needed to help small businesses, but I bet you would not hear them discuss a provision in H.R. 8 that will result in increased capital gains taxes for small firms. Under current law when a person inherits an asset, they receive a ''step-up'' in basis. This means that the person inheriting the assets receives a tax basis increased to fair market value at time of death. When the person sells the property, he or she is only taxed on the difference between the sales price and the fair market value at the date of death.

H.R. 8 would limit the amount of assets that are eligible for step-up basis. Assets exceeding $1.3 million would receive ''carryover'' basis under which the heirs receive the same basis as the deceased owner. Assets of up to $4.3 million transferred to a spouse will receive step-up basis. Carryover basis usually results in higher capital gains taxes because tax will be owed on the difference between the sales price and the basis that the decedent had in the asset. Certain assets will no longer have step-up basis which gives heirs a basis equal to the fair market value at time of death. This change in basis will result in a greater difference between the sale price and the heir's basis.

I agree that Congress should address the estate tax in the coming years, but we need to keep in mind that the current uncertainty was created by the majority's unsound tax policy. It is because of the Republican tax policies that the estate tax is now set to disappear in 2010 and then return to its previous levels in 2011. We tried in the past to make estate tax relief permanent. In 2002, we proposed exempting estates of up to $4 billion and permanently reducing the top rate to 45 percent, but that was not acceptable to advocates for full repeal. Now the Republican majority points to the problems they created with earlier tax cuts as justification for repealing the estate tax—creating further problems, greater inequity, and more debt.

According to a July 2005 Congressional Budget Office, CBO, report, very few farms and small businesses will pay the estate tax if it is set at a reasonable level. The CBO report shows that if the exemption is set at $2 million, only 123 farms and 135 family-owned businesses would have taxable estates and even fewer would have insufficient liquidity to pay the estate tax. Even if one disagrees with the CBO report, we should all be able to agree that raising the exemption amount helps small business and farms. Proposals that exempt inheritances above $3.5 million would overwhelmingly benefit those who own stocks and other securities and really have nothing to do with helping family farms or businesses. If the exemption is increased to $3.5 million, only 0.3 percent of all estates would be affected. Many of these assets have never been taxed, given that assets of wealthy estate frequently include stocks that have never been taxed.

Often it is argued that the estate tax needs to be repealed to assist small businesses. There is no concrete evidence that a family-run business has been put out of business by the estate tax. If the AMT is not addressed it will hurt many more small businesses, but instead of addressing it, Republicans prefer to promote the myth that the estate tax shatters small businesses.

At a time when income inequality is increasing, the estate tax should not be the priority of the Senate. According to the Federal Reserve's Survey of Consumer Finances, the average net worth of an American family grew 6.3 percent while the bottom 40 percent of families' median net worth fell.

When President Theodore Roosevelt advocated an estate tax nearly a century ago, he argued that, the ''man of great wealth owes a peculiar obligation to the state, because he derives special advantage from the mere existence of government.'' He further advocated, ''We are bound in honor to refuse to listen to those men who make us desist from the effort to do away with the inequality, which means injustice; the inequality of right, opportunity, of privilege. We are bound in honor to strive to bring ever nearer the day when, as far as is humanly possible, we shall be able to realize the ideal that each man shall have an equal opportunity to show the stuff that is in him by the way in which he renders service.'' We should heed the words of President Roosevelt and vote against estate tax repeal.

We need to return to a tax system of fairness and equity. Our tax system should reward work and create wealth for more people; it should not be skewed to the wealthiest among us. We need to work together to find a solution to the estate tax which reflects the reality of our fiscal situation and provides certainty for hard-working families.

Mr. BOND. Madam President, 5 years ago Congress took steps to end the death tax. Now the American people expect us to finish the job.

We need to end permanently the tax that punishes American values of savings and investment and of building small businesses and family farms and ranches.

The death tax punishes the American dream—making it virtually impossible for the average American family to build wealth across generations.

The death tax is anti-savings, anti-family, and anti-investment. It is quite simply un-American.

If we don't act now, the death tax will come back in just a few years. Under current law the death tax is phased out in 2010 but comes back in full force in 2011. That is a ridiculous and untenable policy.

The death tax should be completely and permanently repealed now in order to make the Tax Code fairer and simpler and to eliminate the harmful drag this tax has on the economy.

According to the Small Business Administration, more than 70 percent of all family businesses do not survive through the second generation, and 8 percent do not make it to a third.

The death tax is one of the leading causes of the dissolution of small businesses.

It hits those who own small businesses and family farmers the most. When faced with the death tax, farmers and ranchers are in an especially tough spot with most of their assets tied up in land and buildings, livestock and equipment. This gives them little flexibility when settling estates. Unlike an investor with a stock portfolio, they can't simply sell off a block of stocks and move on.

We can all understand budget shortfalls due to a multitude of national and international events. But it is wrong to argue that we can shore up the budget by imposing a death tax on hard-working farmers and small business owners who are the backbone of the American economy.

In reality, the death tax collects little revenue, less than 1.5 percent of Federal revenue.

According to the CATO Institute, compliance with the death tax costs the economy about what the Treasury collects.

A recent study analysis in 2005 by professors at Carnegie Mellon University suggest that repeal would cause a net increase in Federal revenues through dynamic growth effects and increased capital gains receipt.

The Wall Street Journal has reported that repealing the death tax would create an extra 200,000 jobs per year.

Debate usually focuses only on the taxes that estates actually pay, ignoring the real costs this tax imposes on owners of small businesses and family farms. These include estate-planning costs, compliance costs at death, and overall economic growth.

Americans are paying millions of dollars every year to lawyers and accountants just hoping their children will not have to sell off the family business to pay the death taxes. Most small businesses and ranches will not be viable if the children have to sell off half to pay the tax.

That money would be much better spent creating jobs, upgrading family farms, or saving for retirement or a child's college education.

Eliminating the death tax is a matter of fairness.

When folks work their entire lives to build up and pass on a business or family to their children, the kids should not get hit with a huge tax when they die. That is just not the American way.

Americans overwhelmingly agree that it is wrong to tax property and earnings that have already been taxed before. Polls consistently show over 70 percent of Americans support repeal.

Let's have the courage to separate death and taxes.

Mr. HATCH. Madam President, I want to take a few moments to discuss the estate tax and explain why I support its permanent repeal.

I am well aware that many see the move to eliminate the estate tax as little more than a gift to the rich. In my home State of Utah, for instance, the Salt Lake Tribune characterized the elimination of the estate tax as nothing more than ''subsidizing spoiled heiresses at the expense of everyone else.''

I believe that while this is a commonly held view of the estate tax, it is an unfair and inaccurate pejorative of a principled policy position. A punitive tax on inherited wealth is in no one's best interest, least of all the people with no inherited wealth. The Tax Code should collect revenue in a way that does the least harm to economic growth, and this goal should take precedence over any desire to punish the Paris Hiltons of the world.

Without a doubt, the high estate tax rate harms economic growth.

Perhaps our tax system's biggest flaw is that it taxes the returns to investment, usually more than once. When our employer pays us a dollar, both the Federal and State governments gets their share. When we save what is left over by investing it in stocks or bonds, the government takes another bite at the apple by getting a share of the profits of the company in which we invested. And when the stock or bond delivers an investment return to us, we get to pay the tax man yet again.

The estate tax is often yet another layer of taxation on the investment. How many times does the government need a cut of our money?

At what point do we stand up and say: Don't tax more; spend less?

Because of the estate tax, people save less than they otherwise would and as a result businesses have less capital available to use to grow, expand, and create jobs. With less investment, workers are less productive and wages are lower than would otherwise be the case.

The Bush administration's signature economic achievement, in my view, has been to lower the tax on dividends and capital gains, a change that deserves much of the credit for the strong productivity growth of the past three years. This policy change greatly increased investment and the concomitant growth in output has a lot to do with the simply incredible growth in tax revenue we have seen in the past 2 years.

It now appears that we will collect 30 percent more tax revenue this year than we did just 2 years ago, according to the Congressional Budget Office. This is really incredible. Especially when you consider that the economy was headed for a free fall just 5 years ago. Our efforts to cut taxes have saved our economy over the last 5 years.

A sensible tax system should tax income just once and at a low rate. The inheritance tax does neither.

The current 46-percent estate tax rate borders on being confiscatory. Chris Edwards of the Cato Institute reports that out of the 50 largest economies in the world, we have the third highest estate tax rate.

Len Burman of the Urban Institute recently wrote that it is time for both sides of the aisle to agree that the U.S. Tax Code should be designed solely to collect money in the most efficient way possible, so that it does the least damage to economic growth. From that beginning we can then move to address distributional issues outside of the scope of the Tax Code.

I believe this makes a lot of sense. Strong economic growth is in everyone's best interest, and we have not done a good job communicating that fact to the American people. Too often economic growth is viewed as a barrier to a cleaner environment, or stronger families, or less poverty, when in fact nothing could be further from the truth. Nearly everyone in society benefits from a more productive economy, especially those on the lower rung of the economic ladder.

The way to help the people at the bottom of the ladder is not to pull down those at the top of the ladder, but to help those at the bottom to get the education and training they need to obtain and keep good jobs.

The estate tax as it currently stands represents a barrier to economic growth, and it behooves us to remedy this situation as quickly as we can by making its repeal permanent.

Mr. BURNS. Madam President, I rise today to express my support for H.R. 8, a bill that would permanently repeal the death tax. This burden is especially harmful to many Montana farms, ranches, and small businesses. As we have heard many times in the past several days, the value of a person's estate is measured by its fair market value at the time of death.

In Montana, as you can imagine, land value has appreciated significantly in recent years. When the death tax hits, often part of the ranch or farm must be sold off to pay federal taxes. The death tax is not only about the wealthy—it harms working families in Montana who have farmed or ranched on the same land for generations, but now, due to no fault of their own, are forced to give up their way of life just to pay the tax bill.

Land appreciation in Montana is a double-edged sword. While soaring property values benefit sellers and the

local tax base, for those with no intention to sell their property to the highest bidder, the death tax helps make a difficult decision even easier. We already face high out-migration from frontier counties in Montana. It is difficult enough to keep younger generations involved in the family business, but even harder when a death sets in motion a series of unpleasant financial events, including payment of this burdensome tax. I have been a strong supporter of the permanent, full repeal of the death tax. It isn't fair to families who have worked all of their lives to build assets and a way of life that then is taken away. At the very least, the Federal Government should not punish small businesses, farms, and ranches for filling such an important role vital to our economic well-being. I have spent a lot of time on these ranches, and I am here to tell you that these Montanans are some of the hardest working people in the country. By and large, they are not multimillionaires who purchase dude ranches as a pleasant distraction from the hustle and bustle of city life. These are folks who spend a lot of hot days in June swathing hay to make sure the cows are fed throughout the winter. They invest blood, sweat, and tears, often for a dwindling profit. For example, let's look at the case of Mary Jo Lane from Livingston, MT. She wrote to me, saying:

My husband Tom operates the family ranch east of Livingston on the Yellowstone River. My father-in-law, Tom Lane, Sr. is the epitome of the American success story. His father was a first generation American and his mother was an Irish immigrant. He started ranching on his family's ranch out of Three Forks with his brother and became a cattle buyer. Through much hard work, determination and moderate living, along with a little Irish luck, he was able to buy the Livingston ranch in 1972, and his brother took over the ranch in Three Forks. Over the last thirty years Tom Sr. has been able to put together a ranching operation large enough to keep all four of his sons working on the family ranch. In addition to my husband on the Livingston ranch, his brothers operate ranches in Cascade, Harlowton and Ismay. In 1972, I am sure he never imagined what would happen to land values in this area. The ultra-wealthy and celebrities have been driving up land values which agriculturally we can never gain enough income to support. This would be great for anyone interested in selling their land, but it puts a huge burden on the family rancher interested in maintaining the dream of passing the land down to their kids and staying true to the family heritage. With these new purchasers gaining land for purely aesthetic reasons, with no consideration to generating income from the land, we just can't keep up with rising estate costs. In our case, we already know it is not a matter of if we have to sell a piece of land, but which piece to sell that will have the least effect on the operation. This issue is not purely agricultural; it flows into so many other segments of society. As you know, this land is like our factory and when part of the factory is sold, that reduces production which in turn reduces income and reduces taxes paid to the government. No matter how much the land is valued, it still requires about 25 acres to carry one cow/calf pair. Consider too, what selling out does to the small ag communities in the state that rely on ranchers to buy their farming implements, parts, fuel, etc. etc. Estate taxes have a direct impact on the environment as well. Ranches and farms keep the Western land open, limiting development and giving wildlife and people room to roam. Many people come from all over America to visit our beautiful state, but they don't appreciate the fact that the family rancher is paying quite a price to keep it that way.

This experience shows how the death tax has affected just one working Montana ranch, and makes a powerful case for permanent and full repeal of the death tax. Another Montanan called the death tax ''un-American'' since ''ranches are having to be sold in part or entirety to pay the estate tax.'' This point is well taken—the death tax is not levied only against the rich, but against hard-working Montanans. Robert Rumney from Cascade, MT, wrote:

My father has been building this family ranch for almost 50 years, and I have been working with him full time for over 25 years. This winter, we have been updating our estate planning, so that my son and I will be able to continue to work and live on this family ranch. We did research on fair market value of ranch land, and came up with a very conservative estimate of over $10,000,000 value. This included land, cattle, and presently owned equipment. All of these are absolutely necessary to continue to operate this cattle ranch. With the recreational buyers driving up the price of land far beyond its actual agricultural value, it is becoming virtually impossible to pass on a long-time family ag-operation to the next generation. What is this going to do to our nation? What is the purpose of eliminating the family-owned farm or ranch? The affluent buyers are not operating these ranches as producers, but rather using them as private hunting and fishing retreats. How are we going to feed our nation? The estate tax of any kind is going to affect all of us, not just the poor rancher or farmer who is trying to pass along his hard work to the next generation. Please don't allow this to happen. Please vote to eliminate the estate tax.

Robert's letter points to an inevitable result stemming from the death tax. If our working farms and ranches are taxed out of existence, the economic impact would extend far beyond these families, and would affect domestic agricultural production. This statement may well be a reality should the 55 percent tax rate come back in full force in 2011 without any congressional action. The death tax is unfair because it represents essentially a double taxation. Ms. Merelee Manuel from Winnett, MT, explained to me:

Dear Senator Conrad Burns,

I'm deeply concerned about the repeal of the Death Inheritance Tax. I want to explain what happened to the Gjerde Ranch. I was married to Bud Gjerde. We lost his Dad, John Gjerde. We paid the death tax on the ranch when his mother Margaret Gjerde inherited the ranch. She passed away and death tax was paid again. Bud and I bought the ranch, and then Bud passed away Feb. 3, 1975. The death tax was paid again. This took place in a time span of 10 to 12 years. The death tax was paid 3 times! We were NOT RICH. We saved and scraped and did without so that we could put some savings away for a rainy day. Guess what? It had to be used to pay Death Inheritance Tax. This is the most unfair tax of all. Income tax was being paid on this ranch every year. Please don't think it's just the rich who benefit from not having to pay death inheritance tax.

I think it's fair to say that Federal share of this ranch in Winnett was far larger than it should have been. As this letter shows, it's becoming more and more difficult to maintain the family farm in the wake of such excessive taxation. The death tax not only poses hardship on Montana's farms and ranches, but on a variety of other small businesses. Donald Dulle, Jr., runs the Flathead Beverage Company in Kalispell, MT. In a letter to me, he said:

I am counting on you to provide permanent relief from the death tax so I may plan for the future of my business and my family. Evidence has shown that a mere one-third of family-owned business survive the next generation. Too often liquidation is the only choice for family members who have worked side by side with parents and siblings to create a business of value in order to provide certainty for generations to come. I urge you and your colleagues, Democrats and Republicans alike, to put aside your differences and demonstrate the leadership for which you were elected by putting America's family-owned businesses first.

The damaging impact the death tax has on Montana's small businesses and estate planning is widespread. This experience is not limited to just a few Montana businesses but extends across the country. In the Statement of Administration Policy dated June 8, 2006, the administration notes that ''Fundamentally, the death tax penalizes savings and risk-taking, reduces capital formation in the economy, and ultimately, reduces living standards . . . The time to fix this problem is now, so American families can plan for the future without worrying about whether the death tax will reemerge.''

For those of you who may be familiar with the band the Beatles, they had a song called the ''Taxman.'' Though the lyrics were written in 1966, they still remain especially true today, even with a reference to payment of taxes at death. The lyrics say, ''Now my advice for those who die, Declare the pennies on your eyes.''

In the Senate, we have tried to provide relief for small businesses. Unfortunately, we were prevented from continuing work on small business health plans. I urge my colleagues to support the full and permanent repeal of the death tax to provide basic fairness to these small businesses that are the engine that drives not only Montana's economy, but the Nation's as well.

Mr. BYRD. Madam President, along with millions of Americans, I am acutely sensitive to the values of saving and hard work. Like citizens all across our country, many West Virginians devote their lives to acquiring and nurturing a family business or farm in order to pass it on to a son or daughter. These forward-looking Americans ought not to have to worry about their heirs losing the family heritage

because of the demands of the tax code. While I oppose full repeal of the estate tax, I had hoped to support a compromise measure that would exempt small businesses and farms.

In order to debate the estate tax repeal, and work on an amendment exempting small businesses and farms, I had hoped to vote for cloture on the motion to proceed. However, if cloture on the motion to proceed to the estate tax bill had been invoked, a compromise would not have been possible. The majority leadership indicated an intent to immediately file cloture on the underlying bill, and then to limit votes on amendments. The Senate would have then been forced to accept legislation that could have cost the U.S. Treasury up to $1 trillion over 15 years.

If a realistic estate tax repeal is ever to be enacted, the Senate must be allowed to fully debate and amend the estate tax repeal. Such a sweeping tax repeal should not be forced down the throat of the Senate without a thorough debate and the offering of reasonable amendments. Until such time as an understanding is reached to fairly debate the matter—including the offering of amendments—I must oppose taking up the bill.

Mr. SMITH. Madam President, I would like to express my support for compromise on reforming the ''death'' tax. I have always been a supporter of full repeal of the estate tax. However, the votes are simply not there. For America, small businesses, farmers, and others to get the full benefit of estate planning, they need to have something permanent—and not something that is suspended in 2010. Therefore, it is critical that we come together and support a compromise on the estate tax.

I believe that the greatest issue with the estate tax relates to small businesses. In many instances, upon the death of the owner, the family needs to sell its business in order to stay in business. This is not good for our economy. It is important to remember that these earnings which go toward someone's net worth are earnings that if left in the economy would create jobs. In fact, the Heritage Foundation estimates that repeal of the estate tax could produce 240,000 new jobs per year. In my home State of Oregon, repeal would create over 3,000 new jobs. Clearly, these dollars would do far more good for our economy if they are used for employing people and investing in plants and equipment than if you take them into the Government and redistribute them through Washington.

Small business owners are out there taking the risks—and I believe they should be left with the rewards. When running a small business, there is no set calendar which guarantees you vacation or even weekends off. You are working all the time—even Christmas. Owning a small business is a hard way to go, but it is also a great way to go if you have the stamina for it. I applaud all small business owners. They are the spark plugs of the American dream. Unfortunately, they tend to be underappreciated in the halls of government. But small businesses are central to the progress of our country.

The compromise package that seems to have the most support would increase the exemption limit to $5 million. Estates valued over $5 million but less than $30 million would be taxed at the capital gains rate of 15 percent—and estates over $30 million would be taxed at 30 percent. I think this is a reasonable approach. If your estate is over $30 million, you are at a place where you can hire the expensive lawyers and purchase the insurance policies. Basically, you can plan for the next generation in ways that smaller businesses frankly find befuddling and counterproductive to their continued employment and operation of their business.

Some argue that the estate tax is important because it redistributes income between generations. But is it really the Government's business to redistribute income? My own sense is that it is better for the economy if you leave the assets at home—with small businesses and with families. In my opinion, the best redistributer of income and inherited wealth is freedom. Usually third generations will do very well or horribly—thereby redistributing income through freedom.

Lots of people also argue that very few estates are subject to the estate tax today—and they are right. In Oregon, only about 400 estates were subject to the estate tax in 2004. However, the reason that lots of estates don't pay the tax is because they are expending an extraordinary amount of money on insurance policies, lawyers, estate planners, and accountants to try to get around it. These extra fees are the equivalent of a tax for owners of small businesses and farms that need to plan ahead to avoid the tax. Secondly, I believe these resources are better spent plowing them back into businesses and investments that are more productive than just accounting and lawyering.

It is time to put the death tax to rest. I believe that reasonable people should be able to live with compromise. It will provide certainty to small businesses and allow them to keep the rewards of their hard work.

I urge all of my colleagues to support a compromise on the death tax.

Ms. MIKULSKI. Madam President, today the Senate is considering whether to repeal the estate tax. I believe strongly there are problems with the estate tax. Most importantly, it needs to be reformed so it applies to fewer people.

To ensure our Nation's economic competitiveness, government must reward thrift, hard work, and entrepreneurship. It cannot punish those who have saved and worked hard. Instead, we should support our small businesses and family farms—the engine of economic growth in America.

To do this, Congress must raise the exemption for the estate tax. In 2006, estates worth more than $2 million are subject to the tax. This is too low and subjects too many Americans to the estate tax. That exemption needs to be raised. The baby boomers are growing older and approaching retirement, and many have attained some measure of economic prosperity through their years of hard work. They should not be punished for this well-deserved success. Tripling the exemption to $6 million will make sure that the estate tax continues to target an extremely small group of very wealthy Americans. In fact, with an exemption of $6 million per person, or $12 million per couple, less than 50 of all those who pass away in Maryland in 2006 will have to pay any estate taxes at all.

At the same time, I stand for a patriotic pause, which means not passing any new tax cuts until our Nation has paid for the war in Iraq and our troops. The war in Iraq is costing us $2 billion each week. Where is the Iraqi oil that we were promised would help pay for this? There cannot be a change in our revenue stream until the war is over—or paid for by Iraqi oil. If I have to choose between a tax cut or body armor for our troops, I choose body armor. Our first obligation must be to our troops.

War is not the time to be repealing the estate tax. Americans are putting their lives on the line to serve in Iraq and too many are making the ultimate sacrifice for their country. Now more than ever, we cannot afford to repeal the estate tax. But we must reform it.

I am a deficit Democrat. The Federal Government has a $337 billion budget deficit. But that pales in comparison to our Nation's debt, which has risen to $8.3 trillion. It has been estimated that by 2015, each American family's share of our national debt will be $85,000. It affects us all.

I took the tough votes in 1990 and 1993 that led to a balanced budget. They led to the first budget surplus in a generation. But most importantly, those steps put the economy back on track and resulted in 8 years of prosperity enjoyed by all Americans. We created 23 million new jobs and increased wages. Inflation fell and unemployment dropped to historic lows.

Today, Congress must act responsibly. We should not be repealing the estate tax. We should be reforming it so it affects fewer people, protects our small businesses, and so we can keep our Nation strong and secure.

Mr. MCCAIN. Madam President, let me say from the outset that I do not support full repeal of the estate tax. I have consistently voted against repealing this tax because of the impact it would have on the deficit, as well as the possible chilling affect it could have on charitable giving in this country. Having said that, I do recognize the need for commonsense reform of the estate tax structure. However, due to our serious fiscal constraints, we

must proceed very cautiously on this and all other federal tax and spending matters.

In his 1906 State of the Union Address, President Theodore Roosevelt proposed the creation of a Federal inheritance tax. Roosevelt explained: ''The man of great wealth owes a peculiar obligation to the State because he derives special advantages from the mere existence of government.'' Additionally, in a 1907 speech he said: ''Most great civilized countries have an income tax and an inheritance tax. In my judgement both should be part of our system of federal taxation.'' He noted, however, that such taxation should ''be aimed merely at the inheritance or transmission in their entirety of those fortunes swollen beyond all healthy limits.''

I agree with President Roosevelt, and I remain opposed to full repeal of the estate tax. I have indicated, for several years now, that I am open to considering a reasonable compromise that addresses the concerns of those on both sides of this issue. What constituted a fortune ''swollen beyond all healthy limits'' in 1907 is very different from the wealth we see today. I don't think it's unreasonable to raise the amount exempted from estate taxes in order to protect America's family farms and small businesses while maintaining the tax for huge fortunes. We need to debate this issue and come to some kind of resolution. As we all know, our colleague, Senator KYL, has worked very hard for a long time to craft an alternative to full repeal. His compromise deserves to be debated and voted on.

To his credit, the majority leader has consistently indicated that, if the Senate can secure cloture on a motion to proceed to legislation dealing with the estate tax, Senator KYL would be recognized to offer his alternative proposal as an amendment. Therefore, I am voting to invoke cloture on the motion to proceed to H.R. 8 so that we can debate and vote on the Kyl alternative. In 2001, I stated that I supported ''estate tax reform that will take into account the effect such reform will have on our robust charitable community. For this and other reasons, I support a $5 million cap with regard to the estate tax cut.'' My position remains unchanged today. Senator KYL's alternative proposal would put that $5 million cap in place. It is a good compromise and is consistent with my longstanding views on this issue.

I want to be clear. This vote should in no way be viewed as a vote in support of full repeal of the estate tax. It is not. It is simply a vote to allow debate and amendments on the issue—with one of those amendments being the alternative crafted by Senator KYL. This vote is consistent with both my longstanding opposition to full repeal of the estate tax as well as my support for a reasonable compromise. Again—I continue to oppose full repeal of the estate tax, but look forward to supporting Senator KYL's alternative proposal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Madam President, how much time is it remaining on our side?

The PRESIDING OFFICER. There is 7 minute 45 seconds remaining on the Republican side.

Mrs. HUTCHISON. Madam President, I ask unanimous consent that the time be divided in the following way: Senators SESSIONS for 3 minutes, Senator DEMINT for 2 minutes 45 seconds, and Senator HUTCHISON for 2 minutes, and that each be notified of their time when they come to that limit.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama.

Mr. SESSIONS. Madam President, I thank the Senator from Texas. Earlier this year, 26 Senators signed a letter that I produced asking Senator FRIST, the majority leader, to bring up this bill. He has worked hard to find the time, and here we are.

I recall, and I will set the record straight, that the death tax is eliminated already in the year 2010. It goes to zero. But the next year, the exemption is $1 million and the rate is 55 percent, a confiscatory rate.

The American heritage is one of savings and frugality and a belief in the right to own private property and leave that property to whomever people choose on their death. That is why overwhelmingly people who are not impacted by the death tax believe it is wrong and say in poll after poll it should be eliminated.

The cost of collecting this tax exceeds what it brings in to the Government coffers. That is the definition of a bad tax—the very definition of it. A good tax is one that is simple and fair and low cost to collect. This one is exactly the opposite, causing all kinds of gymnastics to avoid it.

Finally, and importantly, it savages growing closely held businesses. I think about one man I met traveling in Alabama. He and his sons own three motels. He met with me and told me they were paying $80,000 a year for a life insurance policy because when that father dies, it will take that much life insurance, $7,000 a month, to pay the death tax.

They are competing with the big guys—Howard Johnson's, Holiday Inn, Marriott—trying to really get up there, but every month they are paying $7,000 that could be used to pay down the mortgage on their motels and build a competitive business. That is why this tax is adversely impacting our country. It is against savings, it is against frugality.

I received a call from Robert Johnson this week, head of Black Entertainment Television. He is competing with CBS, NBC, Fox, and ABC. He is trying to do well. He has a family-held business. If something happens to him, he said there is no other African American who can buy this business. It is going to be bought up by some conglomerate.

I ask my colleagues to remember that CBS, ABC, FOX, and NBC never pay a death tax. Holiday Inn never pays a death tax. It is the small, closely held businesses that are expanding, have no cash for investing in their next new motel who compete with the big guys who have to suck out that money.

Those who want to keep estate tax claim repealing it will cost the Government too much money.

I would like to discuss this issue in some detail. They point to two Government reports—one by the Joint Committee on Taxation, or JCT, and one by the Congressional Budget Office, or CBO. Both these reports assert that repealing the death tax will reduce Government revenues by approximately $280 billion from 2011 to 2015. However, simply put, these cost estimates are not realistic.

Before discussing why, it is important to note that the JCT does not generally share the specifics of their revenue estimates, describe their methodology, or reveal their assumptions to the general public or Members of Congress. We thus must speculate exactly how JCT arrives at their revenue projections. Of course, if the JCT is so confident in the quality of their estimates, one must ask why they are reluctant to reveal their methods and assumptions.

There are many reasons to believe that revenue loss estimates by JCT and CBO regarding repeal of death tax are on the ''high side.'' First, as Joint Economic Committee points out, JCT has estimated that the total revenue loss from death tax repeal would actually exceed revenue the tax raises. This is a curious notion, to say the least. At the time of JCT's analysis, estate tax was expected to raise $218 billion from 2011 to 2015—the 5-years after the death tax returns to its 55 percent top rate. However, JCT estimates that over that same period of time, repeal would lose $281 billion in revenue. In other words, revenue lost from estate tax repeal would equal 129 percent of the actual revenue the tax is supposed to raise. A similar pattern exists for CBO estimate where revenue lost from repeal equals 120 percent of the actual revenue it is estimated to raise. This pattern—present in both estimates—certainly begins to raise questions about these scores.

Second, passing the bill before us would eliminate the stepped-up basis rule. What is the stepped-up basis rule? Current law allows inherited assets to be valued at their current market value at the time of decedent's death. The heirs get a stepped-up basis rather than having as a basis the original purchase price. No capital gains tax is therefore applied to any increase in the value of that asset. This reduces capital gains tax collections significantly. For example, if an heir were to inherit a house valued at $250,000 that was originally purchased by her father for

$100,000, the daughter would pay no capital gains tax on the $150,000 increase in the value of that home. The bill we are debating today would effectively change this to require that a capital gains tax be paid on the full increase in the asset price from the time it was originally purchased. As the Wall Street Journal pointed out this week, the JCT has calculated that changing how inherited assets are treated in terms of capital gains tax law would raise $50 billion to $60 billion a year. Most important, this $50 to $60 billion exceeds the amount of revenue the estate tax raises annually, which has only accounted for 1 percent to 2 percent of all Federal receipts over the years. In other words, the estate tax has not traditionally been a major source of revenue for the Federal Government and elimination of the stepped-up basis rule should more than cover any loss of revenue from eliminating this tax.

A 2005 study from one econometrics firm—CONSAD Research Corporation—backs up this analysis. In particular, they found that the revenue impact of permanent repeal coupled with a limited stepped-up basis rule for the calculation of estates' capital gains realizations would actually yield a small net gain in revenues through 2014.

Third, JCT and CBO scores ignore fact that existence of estate tax itself helps reduce income tax collections. For example, the estate tax encourages widespread tax avoidance, given its high top tax rate, which would return to 55 percent if we do not pass this bill. To avoid paying the estate tax, parents in high-income brackets often shift resources to their children in lower tax brackets, lowering income tax receipts. Similarly, income tax revenue is lost when transfers are made to tax-exempt groups, such as charities and family trusts.

Existence of estate tax also reduces income tax collections by reducing the amount of capital in the economy. Joint Economic Committee estimates that the estate tax has resulted in $847 billion less in savings and capital investment in the United States over the long run—in other words, investment in such assets as office buildings, retirement accounts, houses, factory equipment and so forth. Similarly, recent studies have shown that the estate tax encourages consumption rather than savings and wealth accumulation, shrinking the size of taxable estates.

In addition, according to Heritage Foundation economists, the estate tax costs our economy between 170,000 and 250,000 productive jobs each year. These jobs are never created because the investments that would have financed them are not made, as these resources are diverted to pay the death tax itself or pay for complex trusts and insurance policies to avoid the tax. If these jobs were created, each of these 170,000 to 250,000 individuals would be paying income tax, lessening revenue loss from estate tax repeal.

The estate tax also imposes an excessive compliance cost on taxpayers, again lowering income tax collections. Estate planning can be very complex, requiring the average family which engages in it to spend anywhere from $30,000 to $150,000 according to one study. It should be noted that twice the number of estates were required in 2004 to file all the death tax paperwork than actually paid the tax. Many of these filings require hiring lawyers and accountants at a significant cost to these estates. In fact, Alicia Munnell, a professor of finance at Boston College and a former member of President Clinton's Council of Economic Advisers, has estimated that the costs of complying with estate tax laws are roughly the same as the revenue raised. In particular, she has written that ''in the United States, resources spent on avoiding wealth transfer taxes are of the same general magnitude as the yield.'' Similarly, she wrote in another article, ''the compliance, or, more appropriately, the avoidance costs of the transfer tax system may well approach the revenue yields.'' Put another way, for every dollar of tax revenue raised by the estate tax, Munnell estimates that another dollar is wasted simply to comply with or avoid the tax.

Fourth, another reason it is safe to believe that the estimates we are discussing today are inaccurate is that, according to an analysis by the American Family Business Institute, the CBO underestimates economic growth in its analysis and thus tax revenues. Specifically, in scoring revenue loss with repeal, CBO assumes that over the next 10 years that real GDP growth will average 2.95 percent per year. This forecast is an underestimation of historical averages. Over the past 40 years, average growth in GDP is 3.20 percent; the 30-year average is 3.23 percent; the 20-year average is 3.11 percent; and the past 10-year average is 3.34 percent. If we assume a 0.1 percent per year increase in GDP growth above CBO baseline, which would keep GDP below any of the averages I just mentioned, the result is a revenue loss from repeal of only $87 billion over the next 10 years. In other words, revenue loss is more than 300 percent lower if we assume only a slightly higher growth in GDP, which is still lower than other recent 10-year GDP averages.

Finally, past estimates by JCT and CBO have been wildly off base. JCT forecast that the capital gains tax reduction enacted in 2003 would ''cost'' $3 billion from fiscal years 2003 to 2005.

What happened? The cut in capital gains tax rate raised revenue. In fact, tax receipts from capital gains tax are now expected to be $87 billion more than CBO originally predicted for years 2003 to 2006. Similarly, JCT estimated total revenue loss for the first year of the 2004 American JOBS Creation Act—a bill that provided several corporate tax cuts would be $4.5 billion. In reality, enactment of this law actually resulted in a revenue gain of $16 billion.

Finally, Congress reduced the capital gains rate from 28 to 20 percent in 1997. JCT estimated at that time that such a reduction would result in a revenue loss of $21.2 billion over 10 years. However, over the first 4 years following this rate reduction alone, revenues from capital gains tax were $47.8 billion more than JCT estimates.

Given all these problems with the JCT and CBO estimates, what are we to believe about the cost of repealing the death tax? Personally, I believe that even though the Federal Government may lose some revenue from eliminating the estate tax, that amount will be negligible, if the Government loses any money at all. Thus, the argument that we cannot afford to eliminate the death tax is a hollow one. Two-thirds of the American people support repeal of the death tax according to a recent survey.

It is time to follow their wishes.

The PRESIDING OFFICER. The Senator has used 3 minutes.

Mr. SESSIONS. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Madam President, we are being subjected, once again, to the tired old Democratic song that Republicans are trying to help their rich friends, even though the other side has said only 2 or 3 out of every 1,000 Americans pay this tax. They think we are doing this to get votes. Even though they say only a small number of Americans pay this tax, the majority of Americans believe it is wrong because they know what Senator SESSIONS was just saying about a family-owned hotel chain, that it is not just those who own it who will suffer if it is broken up and sold, that it is all the people who work for it.

So the question today is really when someone dies in America, should their property and possessions go to the Government, or should it stay working in a family business or farm in producing jobs in this country?

One point I would like to make in this short period of time is, this estate tax does not benefit the average American. It does not help poor Americans. In fact, it takes their job.

Just to deal with the death tax—and we have heard these figures before—lawyer and accountant fees are from $30,000 to $150,000, life insurance policies, which Senator SESSIONS just mentioned, appraisal costs, tax preparation—the cost of dealing with this is actually much more than the revenue.

This chart reminds us that the revenue in the death tax is less than $25 billion a year, but the economic cost to our country is estimated at $847 billion in lost capital investment because of the death tax, a loss of over 100,000 jobs per year, and over $10 billion in lost income.

The American people are not stupid. They know that while this tax may hit

the wealthiest of Americans, that most of us as Americans work for those family businesses or farms. It makes no sense to break up these businesses and send the money to the Government where it will not be nearly as effective in producing economic prosperity.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Madam President, how much time is remaining?

The PRESIDING OFFICER. There is 2 minutes remaining.

Mrs. HUTCHISON. Madam President, we passed a bill in 2001 that actually started lowering the death tax for a 10-year period, and then it will come back in full force. When it comes back in full force, we are going to have up to a 55-percent tax on estates that are over $1 million.

What does this mean? It means that if someone owns a farm where the property has appreciated but they cannot possibly produce enough on that farm to pay one lump sum on its value—55 percent of it—we would be breaking up family farms and ranches all over this country. That is what the death tax has been doing for years.

In fact, America has the highest death tax in the world. We say we are a country of small businesses, of family-owned businesses, entrepreneurs who have started with nothing and built something, and yet we do the very thing that hurts those small businesses. In fact, they cannot pass to the next generation. Thirty percent of family businesses today pass to the second generation; 13 percent make it to the third generation. That is because the property owned in a business is worth much more in value than it produces.

The death tax walks away from the American dream. The American dream is if you come to this country, if you work hard, you can give your children a better chance than you had. The American dream is that you can start with nothing and you can build something if you work hard and you have a good idea. But the death tax walks away from that because it breaks up that family business, it breaks up the ability to accumulate wealth, it interferes with freedom and the free enterprise in this country today.

I hope we will not throw people out of jobs, as Senator DEMINT just mentioned; that we will not prevent people from giving their kids a better chance than they had. Please vote for cloture today so that we can do the right thing for our country and promote small farms, family-owned businesses, and entrepreneurship once again.

The PRESIDING OFFICER. Time has expired.

Mr. REID. Madam President, it is my understanding that I will speak, then Senator FRIST will speak, and then we will have a vote; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. Madam President, first, I understand the people downtown and on 5th Avenue have come up with this death tax name, but this is an estate tax. If my wife or I die, there would be no tax. I would acquire the property she had and vice versa. At such time as she and I pass away, and if there is a tax—of course, we have paid no tax on any of this—when we pass away, there would be a tax perhaps. But if there was a tax, one would have 14 years to pay it.

I want all within the sound of my voice to understand that 46 million people have no health insurance, and there is not a word of debate in the Senate. Gas prices are over $3 a gallon in Nevada. Minimum wage has not been raised in years, and we are not doing anything on that in the Senate.

The Republican-dominated Congress just eliminated the tuition tax credit, a credit for which one could get a tax benefit for sending their kids to college. We are not working on that issue.

We have a deficit approaching $9 trillion, and we are doing nothing about that.

Stem cell research, to give hope to hundreds of thousands, if not millions, of Americans with diseases such as Parkinson's, Alzheimer's, diabetes, Lou Gehrig disease—we are not doing anything about that.

Prescription drugs for everyday Americans and for seniors—nothing.

Not one of these issues is before the Senate, but we are going to talk about something today that affects two-tenths of 1 percent of the people in America—two-tenths of 1 percent.

The estate tax is not high on the agenda of people in Nevada. I think we are wasting precious days on divisive issues when there are so many other matters that deserve and demand our attention. Why aren't we doing something in the Senate to address issues that affect 99.8 percent of the American people?

I haven't talked about the intractable war in Iraq. It rages on. Our soldiers continue to fight valiantly, and heroic performance and sacrifice has not been matched, I don't believe, by the fact that we have $50 million we need to spend to get the military up to the position it was in when the war started. There has been deterioration of our equipment.

With respect to health care, there are 46 million Americans who have no health insurance. I think it is a national crisis.

The national debt—I mentioned that briefly—stands at $8.4 trillion right now and is scheduled to grow to $12 trillion by 2011, double what stood when President Bush took office. The national debt represents a birth tax for our children, our children's children, and their children. The Senate is doing nothing to relieve the burden of the birth tax. Why?

Well, we know the answer. The majority, the Senate Republicans, don't intend to fix these problems because so many of them are problems they created, and they don't want to call attention to them. That is why we don't have legislation on which we can offer amendments.

So, instead, we have the estate tax on the Senate floor, the latest effort to distort, distract, and confuse Americans.

The estate tax is an extremely costly tax for a wealthy few that comes at the expense of every American born and yet to be born for decades to come. How costly? Roughly $1 trillion. And how few? Twelve thousand estates in America. We are a country of 280 million people. We are legislating here today for 12,000 people who are rich.

I think it is fair to say that Warren Buffett, George Soros, the Gateses—billionaires—they have said very clearly that this tax should remain, that it is their obligation as rich people in America who have achieved the American dream to pay these taxes. But there are a few who don't feel that way. As Senator DURBIN indicated, $800-some-odd billion by people who are pushing this legislation by running full-page ads in newspapers around the country.

Let me talk about some myths concerning the estate tax. First, some proponents of the estate tax repeal sponsored by about 18 families would have us believe that it is a fiscal-free lunch. One group, the American Family Business Institute, even claims that repealing the estate tax would increase the coffers of this country. Oh, that is so wrong.

The Joint Committee on Taxation has estimated revenue loss over the next 10 years to be about $400 billion. Even President Bush's own Treasury Department says that repealing the estate tax will reduce Federal revenues. The Treasury Department puts the loss at about $340 billion. That is only half the story.

According to the Tax Policy Center, a joint project of the Brookings Institute and the Urban Institute—these are nonpartisan organizations—the revenue loss associated with repealing the estate tax over the first full 10 years it is in effect would be $750 billion. But we have to borrow that money. So that would mean that this would be financed by China, Japan, Saudi Arabia, Great Britain, and other countries. Over half the money now that we have borrowed doesn't come from Americans; it comes from foreign countries. So that is about $1 trillion. Over 10 years, we can expect the national debt to increase by $1 trillion for 12,000 estates, two-tenths of 1 percent at the most.

The second myth is that we need to repeal the estate tax to protect and preserve small businesses and family farms. That is a myth. Very few small businesses and family farms pay any estate tax, and an even smaller fraction suffers any liquidity problems as a result of the tax. In fact, the American Farm Bureau in California, the largest farm producer in America—they grow the most, by far, of any State in the

Union—the Farm Bureau was asked, Show us a single farm in California that was forced to sell as a result of the tax. They could produce not a single farm, not one.

It is a similar situation with small business. In fact, the Small Business Council of America has said that the repeal of the estate tax will actually harm most small business owners because of how it would change the tax benefits they currently receive.

A third myth. We have a compromise. If there were ever a myth about a compromise, listen to this beauty. For the first, I think it is $5 million or $10 million I read in the paper, no tax. None. Then, after you have over $5 million or $10 million, or whatever the bottom figure is, then the tax goes up to the outrageous sum of 15 percent. Over $30 million, then it goes up to 30 percent. Someone who is worth $30 million net—that is a lot of money—and it would even be more than that because you would subtract stuff to get to the net estate—they would be paying less taxes than somebody who works in Henderson, NV at one of the industrial plants. They pay more taxes, somebody working for wages, than somebody with that kind of money.

So the third myth perpetuated here by the majority is that the only way to reach a deal on the estate tax is by voting on a motion to proceed and foregoing your right to vote on all amendments, save one, drafted by supporters of full repeal, and it is a full repeal anyway. It amounts to about 85 or 90 percent of the lost revenue.

This country is bleeding in red ink. I support fiscally responsible reform of the estate tax, but anyone who knows the Senate and knows the compromise proposal will quickly see that the majority's proposal doesn't even pass the laugh test. The best way to bring Members together on a difficult issue is to let the Senate work its will. That is what is supposed to be done, with Members of both parties able to offer any amendment they choose and get a vote. Yet under the majority's offer, only the most ardent supporter of repeal of the estate tax will be permitted to draft and offer an amendment. All other Members would be denied that opportunity. That fact alone should tell people our majority friends are not serious about letting the Senate work its will to develop a true bipartisan compromise.

But it is even worse than that. No one I know has seen the actual language of the so-called compromise—only what was in the newspapers—and there certainly has not been any actual score of how much it would cost. But on descriptions of the amendment we have seen in the press, credible outside analysts have indicated this new proposal would cost about $825 billion or $850 billion. As I have said, it is 85 or 90 percent of the cost of full repeal. Only those trying to sell the people a bill of goods could possibly call something a compromise that is not a compromise when the costs are this large, are this close to full repeal.

I don't know where the term ''a pig in a poke'' came from, but if there were ever a description of what I think it means, that is, you have a container and you put something in it and you wind up with nothing, this is it. This is an absolute farce.

I hope this Senate will not focus its attention on two-tenths of 1 percent of the American people and leave 285 million people still wondering when are we going to get some health insurance reform, when are we going to do something for health care, stem cell research, when are we going to do something about education costs. I can't imagine that our Senate would do this with the red ink as far as you can see, and we are going to focus on two-tenths of 1 percent and leave everyone, including the folks wanting a minimum wage increase, out in the cold as they have been for years. This is unfair. I would hope that we would not vote for cloture on the motion to proceed. This is wrong.

Madam President, the majority leader is on his way. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Madam President, Michael Caudle's father founded the Greenfield Lumber Company in Greenfield, TN in 1955. Michael's dad and his granddad spent years building that business into the trusted, reliable family business that exists today. But when Michael's dad passed away 6 years ago in 2000, the business was put on the brink. The family at that time, all of a sudden, was forced to pay nearly $400,000 in death taxes and almost had to sell the business they had worked so hard to put together to pay the tax.

Michael says he hopes to pass that lumber company on to his children and his grandchildren. It is his life. It is what he has worked for: to give them that sense of family pride and community, that pride and community that his dad had passed on to him.

But like so many American families, his dream is threatened by what has come to be known in my State as the ''buzzard tax,'' and by people who don't see the value in preserving a hard-won family tradition, that name is appropriate.

One Tennessee couple told my office they decided not to trust their fate to the tax man. They sold their east Tennessee car dealership so that if one of them were to die suddenly, the other one simply wouldn't have to pay those exorbitant taxes; that burden wouldn't fall on their shoulders. They didn't want that buzzard picking apart that dream that they had built together.

Fred Heinecke's parents, unfortunately, didn't know about that kind of tax planning. As Mr. Heinecke of Vanore, TN wrote to the Knoxville News just this Saturday:

> Current law allows a $4 million deduction for a couple. That may be true if they die at the same time, such as in a plane crash, but not if they die separately as most couples do. I learned the hard way because my parents died a couple years apart without a trust. When my mom died in 2003, I wrote a painful check for over $300,000 to the Federal government. This required the sale of property that had been in the family for over 50 years.

Fred, like so many people, not only had to write that unexpected and huge check to the Federal Government in order to pay, he had to negotiate the sale of his parents' property at one of the worst moments in anybody's life, and that is the time of their death, the passing of his mom. As Fred's story, which is so typical and like so many other stories, illustrates, this death tax is unfair. I think that is the strongest argument of why we bring the repeal of the death tax back to the floor today. It is time to bury it. It is time for it to go.

In a few moments we will have a vote on cloture on the motion to proceed to H.R. 8, and we need to be very clear about what this vote means. A vote in favor is a vote to move forward with this important debate. A vote against is a vote to kill any chance of repealing or even reforming this onerous tax and is a vote in favor of returning the death tax to the pre-2001 confiscatory rate of 55 percent, an exemption of only $1 million per person.

Back in 2001, we passed a gradual phaseout of the death tax—real progress. Under that 2001 Economic Growth Tax Relief and Reconciliation Act, the death tax is scheduled to disappear in 2010.

But under the terms of this compromise legislation, after 2010 it comes roaring back with that tax level of 55 percent in 2011. That is why we need to act. We need a permanent fix, and that is what this vote is all about.

Last spring, the House passed a bill to make full repeal of the death tax permanent. They did so with strong bipartisan support. Over a year has passed and thus now it is time for us to act.

Americans have broadly said they support repealing the death tax. In a recent poll commissioned by the Tax Foundation, nearly 70 percent polled in favor of repeal.

With stories like Mr. Henicke's, it is not hard to understand why. We already pay enough taxes over our lifetimes, whether it is a water tax, a gas tax, a payroll tax, a utility tax, a cable tax, a property tax, a sales tax, an income tax—we are taxed every minute of our lives. We are taxed from that first cup of coffee in the morning to the time we flip off the lights at bedtime. In fact, we are taxed so much that one nonpartisan organization calculates

that the first 5 months of the average American's salary is confiscated by the Government.

If you are an enterprising entrepreneur who has worked hard to grow a family business or to keep and maintain that family farm, your spouse and children can expect to hear the knock of the tax man right after the Grim Reaper.

Some on the other side of the aisle argue that the death tax is a critical stream of Federal revenue and that in any event it only hits the superrich. Neither is true. Mounting evidence shows that once widespread estate tax avoidance is accounted for, the death tax nets zero to negative tax revenue. Worse yet, the death tax may be responsible for the loss of from as many as 170,000 to 250,000 potential jobs each year.

Meanwhile, it is not the superrich who are hardest hit by the death tax; family businesses bear the brunt. The Seattle Times Company reports that 89 percent of all taxable estates filed in 1995, before the 2001 reform, were $2.5 million or less in size. What does this mean?

A family-owned business stands to lose nearly half of all its assets when it passes from one generation to the next. That is over half of everything, including land, buildings, equipment, money and more—all because of the current estate tax law which is really a tax on death. They sell out, letting long-term employees go. Not because they want to. But because they have to. And the echo reverberates through an entire community.

Just yesterday I heard from farmers and western landowners and listened to the damage, the harm they suffered as a result of this death tax. Some of my colleagues have said that the death tax doesn't hurt farmers, but the farmers simply take a different view. Many of them are cash poor. They own land handed down from their parents. They know there is no easy way their children can continue to work the land if they are subjected to this death tax, so rather than wait for the death tax to pick apart their family farm, they make plans to sell the land in advance. That is the part of the story that never gets told. The death tax not only confiscates the honest earnings of the recently deceased, it often forces families to divest themselves of that family enterprise.

In the past, when Congress enacted a death tax, it was at an extraordinary time of war, and the purpose was to raise temporary funds. But after the war was over the death tax would go away, it was repealed. But that changed in the last century. The death tax was imposed and has never been lifted. Instead, it became entrenched and it took 90 years to roll back.

It is time to stop punishing America's entrepreneurs and job creators for saving, for investing, and succeeding. The death tax tells people it is better to consume today than to invest for the future; to consume today rather than save for the future; to spend now and leave nothing for later. That doesn't make sense. It is unfair.

On February 10 of this year I said the Senate would debate and decide the fate of the death tax. That time is upon us. I urge my colleagues to cast their vote in favor of cloture, of proceeding to allow debate on elimination of the death tax. If we do not, the death tax prevails. America's family businesses lose and so do the workers they hire and the communities they support. A vote for cloture is a vote to protect these family traditions. It is a vote for what is right, for simple fairness.

We will turn to the vote in just a few moments. Again, this is a vote on the motion to proceed to allow debate. It will require 60 votes on this very important issue. If we get 60 votes—and I hope we do get those 60 votes—I expect we will see a cloture motion on the underlying bill. If that underlying bill is not successful, I would think that we would need to gather together to have compromise legislation, and I would expect a vote on that as well.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 84, H.R. 8: to make the repeal of the estate tax permanent.

Bill Frist, Jon Kyl, Jim Bunning, Conrad Burns, Richard Burr, Tom Coburn, Wayne Allard, Craig Thomas, George Allen, Judd Gregg, Johnny Isakson, David Vitter, John Thune, Mike Crapo, Jeff Sessions, John Ensign, Rick Santorum.

The PRESIDING OFFICER. By unanimous consent the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 8, an act to make repeal of the estate tax permanent, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from New York (Mr. SCHUMER) are necessarily absent.

The PRESIDING OFFICER (Mr. ENSIGN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 41, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—57

Alexander	Burns	Craig
Allard	Burr	Crapo
Allen	Chambliss	DeMint
Baucus	Coburn	DeWine
Bennett	Cochran	Dole
Bond	Coleman	Domenici
Brownback	Collins	Ensign
Bunning	Cornyn	Enzi
Frist	Lott	Shelby
Graham	Lugar	Smith
Grassley	Martinez	Snowe
Gregg	McCain	Specter
Hagel	McConnell	Stevens
Hatch	Murkowski	Sununu
Hutchison	Nelson (FL)	Talent
Inhofe	Nelson (NE)	Thomas
Isakson	Roberts	Thune
Kyl	Santorum	Vitter
Lincoln	Sessions	Warner

NAYS—41

Akaka	Durbin	Lieberman
Bayh	Feingold	Menendez
Biden	Feinstein	Mikulski
Bingaman	Harkin	Murray
Boxer	Inouye	Obama
Byrd	Jeffords	Pryor
Cantwell	Johnson	Reed
Carper	Kennedy	Reid
Chafee	Kerry	Salazar
Clinton	Kohl	Sarbanes
Conrad	Landrieu	Stabenow
Dayton	Lautenberg	Voinovich
Dodd	Leahy	Wyden
Dorgan	Levin	

NOT VOTING—2

Rockefeller	Schumer

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. DORGAN. I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KOHL. Mr. President, I rise to explain to the people of Wisconsin my vote this morning on the estate tax.

The arguments surrounding estate tax repeal are muddled, and I believe there are important clarifications to make. First, small businesses and farms rarely—if ever—are forced to sell off assets or close up shop to pay the tax. Under the current exemption, roughly 99 percent of estates owe nothing in estate taxes. When the exemption expands to $2.5 million, 99.9 percent of all estates won't owe a dime. According to a report by the Tax Policy Center, in 2011, with a $3.5 million exemption, only two of every 100,000 people who die that year would be subject to the estate tax.

The second explanation is of what the Senate voted on today. Today's vote was on a motion to proceed to a bill to repeal the estate tax. Not to proceed to a compromise or any other deal—but to full repeal.

I oppose full repeal of the estate tax. Our Nation can no longer afford this tax break for the very well off. I supported the 2001 tax bill because we were in a time of surplus. That is not the case today. Now we face huge deficits, deficits amplified by the war on terror and reconstructing the gulf coast. According to the non-partisan Center on Budget and Policy Priorities, permanently repealing the estate tax would add about $1 trillion to our national debt from 2011 to 2021. We cannot afford, at this time, these kinds of costs.

Nevertheless, I do support estate tax reform, and I will work with my colleagues towards that end. Responsible

estate tax reform is possible and necessary. We must work to find an exemption level coupled with a tax rate that will provide significant relief, while not adding nearly a trillion dollars to the next generation's tab.

PANDEMIC FLU

The PRESIDING OFFICER. Under the previous order, there will be 25 minutes for debate, equally divided between the Senator from Kansas, Mr. ROBERTS, and the Senator from New York, Mrs. CLINTON.

The Senator from Kansas.

Mr. ROBERTS. Mr. President, I rise today with my colleague, Senator CLINTON, to talk about an issue that demands our attention and action: the potential for a pandemic flu outbreak and, more importantly, what we can do about it.

Behind me I have a picture of a crowded emergency hospital at Fort Riley, KS, during the 1918 Spanish flu pandemic. That flu eventually took the lives of more than 600,000 Americans and 50 million people worldwide. However, my colleagues may not be aware that the first human cases of the Spanish flu in the United States were discovered in my home State of Kansas at Camp Funston in Fort Riley, KS.

On the morning of March 11th, 1918, a company cook reported to the camp infirmary complaining about a bad cold. By noon, over 100 sick soldiers suffering the same bad cold also reported to the infirmary. These complaints of bad colds turned out to be the first cases of Spanish flu in America.

Within weeks, that influenza had spread to places as far away as Camps Hancock, Lewis, Sherman, and even to several hundred prisoners at San Quentin. By the summer, the flu reached around the globe, killing tens of thousands of people.

This flu was so severe and damaging that attack plans during World War I had to be altered or postponed because there were shortages of healthy men to battle. The Spanish flu continued to spread all throughout 1919. It reached its death toll of nearly 50 million people worldwide.

I yield to my distinguished colleague.

Mrs. CLINTON. Mr. President, I thank my colleague. Senator ROBERTS has outlined the impact the 1918 flu outbreak had on Kansas, our Nation, and the world. It is almost unimaginable that starting with that one company cook, 50 million people worldwide died.

I will tell a different story about a public health success. In March of 1947, the City of New York faced an outbreak of smallpox when three cases appeared at a local hospital. On April 4, New York City began a mass vaccination campaign to prevent further cases from occurring.

Behind me is a photograph of Red Cross volunteers waiting to receive a vaccination against this deadly disease. Over the next month, more than 6 million people were inoculated against smallpox, the largest mass vaccination in United States history. Even President Truman, who was scheduled to visit New York during this time, received a vaccination.

Through the cooperative efforts of local government employees, public health workers and an army of volunteers, an outbreak was averted. Vaccinations took place at hospitals, schools, and police stations. Frequent press bulletins helped to ensure that people knew what was happening and where they could go to have themselves and their families vaccinated. Our national public health system was able to respond both quickly and efficiently to contain this disease.

As the New York City Health Commissioner reported in the American Journal of Public Health later that year, never before had so many people in one city been vaccinated in such a short time and on such short notice. Thanks are due to the press and radio for giving so generously of their space and time to bring necessary information to the public. Had it not been for them and the intelligent cooperation of the public, the generosity of private physicians and volunteer workers, notably from the American Red Cross, the American Women's Voluntary Services and former Air Raid Warden groups from World War II, it would have been impossible to have achieved this remarkable record.

Senator ROBERTS and I are here today because we believe, half a century later, we face a similar public health issue. The looming threat of pandemic influenza has caused our Federal Government to begin mobilizing for when—not if—avian flu hits our shores. We are investing in research for a vaccine, stockpiling medications, and trying to develop plans for mass vaccinations.

If recent history is any indication, we may not be able to muster the same response as we did in 1947 when Americans were still on a war footing or had a mentality of working together. What is worrisome to me when I think about our country's preparedness is the fact we are not even prepared to deal with the seasonal influenza we face every single year.

Since 2000, we have had four shortages of seasonal influenza vaccine. We have seen senior citizens line up for hours to get flu shots. Unfortunately, we have seen some unscrupulous distributors trying to sell the flu vaccine to the highest bidder. Millions of Americans have chosen not to get vaccinated, despite the clear preventive effects of the vaccine.

This is something we want to stress and that Senator ROBERTS and I have been working on together to try to come up with some practical solutions. This is a matter of preparedness, not a partisan issue. This is a matter of planning. It is a matter of ensuring that our health care system can respond both to the annual flu outbreak and to the threat of a pandemic flu. We believe we have a lot of work to do.

Mr. ROBERTS. As Senator CLINTON has highlighted, the need to be prepared for both seasonal flu and a potential avian flu pandemic is absolutely critical. Some believe the potential avian flu outbreak could be as lethal as the 1918 Spanish flu. One cannot watch or read the news without a report on the concern of flu reaching our shores.

In reality, human cases of avian flu have been discovered in 10 countries. Three years ago there were only three confirmed cases of avian flu in humans. Today these numbers have grown to over 224 human cases, 127 deaths.

In February, I took part in an avian flu exercise at the National Defense University. That exercise was called Global Tempest—aptly named. The exercise simulated a worst-case scenario flu pandemic, and participants from several Federal agencies, and Members of Congress, took part in the event. We all served as advisers to the President.

The exercise showed firsthand how quickly our public health system and real critical infrastructure services can be simply overwhelmed, how communication can easily break down and how panic can take hold amongst the public. We were forced with the difficult decision of having to determine where limited medical supplies and personnel should be targeted, how the Federal Government can sustain the private sector and try to mitigate the real economic effects of the pandemic, and if and when the Department of Defense should be called in to assist with the civilian efforts.

This Global Tempest exercise and experience, along with understanding the strength and the force of the Spanish flu in recent natural disasters such as Hurricane Katrina, have taught us a valuable lesson. We must be prepared at all levels to deal with the large-scale public health emergency such as the pandemic flu. This system must be able to respond in any type of crisis. But, more importantly, this system must be ready to respond before the crisis begins.

As chairman of the Senate Committee on Intelligence and a member of the Senate Agriculture and Health, Education, Labor, and Pensions Committees, I take the threat of a flu pandemic seriously and view it not only as a public health concern but a concern in regard to our national security.

Senator CLINTON is a fellow member of the HELP Committee. She shares these concerns. However, we do not want to stand before our colleagues and our constituents, those watching today, and cause panic or alarm. There have been no cases of the avian flu virus in the United States, nor has there been a human transmission of the disease in a form that could fuel a pandemic. Instead, we stand together before all of our colleagues hoping to motivate them to take the necessary steps to make sure we are adequately prepared, should avian flu take hold in

the United States. We believe there are some weaknesses in our system that we must strengthen so we can respond to a crisis.

Last week, I hosted a pandemic flu planning conference in Kansas with Senator BROWNBACK and Governor Sebelius. The conference included other Federal, State, and local officials, the business community, university, health providers, hospitals, school administrators, many other stakeholders who came together to make sure that Kansas is prepared in the event of an influenza pandemic. We identified the steps that must be taken at the State and local level to plan for and respond to a flu pandemic.

At the Federal level, Senator CLINTON and I took the lead last October and introduced legislation to help strengthen our Nation's flu vaccine system. The Influenza Vaccine Security Act takes a comprehensive approach and includes several provisions to improve our vaccine market and delivery system for the seasonal flu. It also provides the framework that is absolutely critical during a pandemic flu.

Mrs. CLINTON. Senator ROBERTS is absolutely right. We believe it is critical to ensure that our basic seasonal flu vaccine production and distribution system is capable of delivering vaccines to all who need them, especially with the threat of an avian flu pandemic moving over us. Thousands of people die in our country every year from seasonal flu. It makes sense to us that we need to get that system absolutely as efficient as it needs to be so that then we could handle a rapid vaccine production, mobilization, and delivery challenge in the event of pandemic flu. Because we don't have a system through which to track vaccines, we cannot ensure that supplies reach the highest priority populations—including seniors and the chronically ill, those who should get vaccinated as early as possible in any given flu season. Many physicians and other providers have contacted us to express frustration at their continuing inability to accurately predict at which point they may be able to provide needed supplies of influenza vaccine to their patients. We do this in other parts of our economy. We routinely use tracking devices to trace deliveries of other goods in the private market. But yet we still cannot predict when a vaccine order placed in the summer might actually be provided to a doctor's office or a hospital or another place where the flu vaccine can be administered.

Our legislation, the Influenza Vaccine Security Act, would establish a tracking system through which we could better trace the distribution of vaccine from the factory to the provider, and we could identify counties with high numbers of priority populations. Then with that system in place, we could easily determine, in times of shortage, where the vaccine was most needed and facilitate distribution to those areas. All of this could take place in a matter of hours, rather than days or weeks, as it does now.

The tracking system in our legislation builds upon the current private system of distribution. It has received support from vaccine manufacturers and public health groups. Linking information through a national database can be done in a manner that does not jeopardize free-market competition but actually assists it.

It simply makes sense to establish a tracking system for vaccine distribution that can be used in both seasonal and pandemic events, to have that system already operational rather than to rely on untried mechanisms in emergency situations when we would already be facing all the multiple challenges of delivering health care.

We recognize that many entities in our States as well as around the country may not have the technology or infrastructure in place for a vaccine tracking system. That is why our bill also creates a demonstration program that authorizes the Centers for Disease Control, working together with State and local health departments, to provide demonstration grants to health care institutions to assist them in information technology upgrades to allow these institutions to improve their ability to report and track flu vaccine dissemination.

Mr. ROBERTS. Senator CLINTON and I also recognize the very critical need for domestic-based vaccine manufacturers and an increased production capacity in the event of a flu vaccine shortage or some kind of a public health emergency that would require a mass need for vaccines or any other countermeasure. That is why our bill improves the ability of the current manufacturers to remain in the U.S. market and encourages more companies to enter the market with domestic-based production facilities. We provide grants to manufacturers for technical assistance from the Food and Drug Administration and grants for capital improvements in technology or production capacity.

Our bill also addresses the need to quickly find the medical professionals in the event of an emergency. We require the Centers for Disease Control and Prevention to work with our State and local health departments to develop a registry, if you will, of medical personnel who can provide services during a public health emergency. Such a system was required under the Bioterrorism Act passed by Congress 4 years ago. But there is still no working system in place. This is unacceptable. We must have a system that can easily identify doctors and other health professionals who can assist during a public health emergency—that is common sense—especially during an emergency that affects many areas across State lines. This will allow our Federal, State, and local officials to move quickly and efficiently to provide Medicare to those in need.

During Hurricane Katrina and its aftermath, I heard from many doctors and other health professionals across Kansas—I am sure the Senator from New York did as well—who wanted to volunteer their time in the gulf coast area. However, their desire to help those in need was hampered by the inability of Government officials to easily identify a doctor who was credentialed or other health providers from other States who could provide care. This is why Senator CLINTON and I now stand before our colleagues to stress that we can no longer wait for the development of such a registry of medical personnel. We are working and will continue to work with the HELP Committee to make sure this is a priority in the bioterrorism reauthorization.

Mrs. CLINTON. Senator ROBERTS and I also believe that reforming the flu vaccine system requires increasing demand for vaccinations. This bill increases the funding for CDC's educational initiatives and sets up grants through State and local health departments, in collaboration with health care institutions, insurance companies, and patient groups, to increase vaccination rates among Americans but particularly among priority populations—the elderly, the chronically ill, and those for whom the seasonal flu is a particular risk. We have made progress. Between 1989 and 1990, flu vaccination rates among senior citizens doubled from 33 percent to 66 percent of the population. But we need to get those numbers up even higher to try to meet the Healthy People 2010 goal of having 90 percent of our seniors receive an annual flu vaccine. We have to get more information out to people about why this is important.

This is especially critical if we are confronted with pandemic flu. Many people last year wanted to get a seasonal flu vaccine, because they thought it would protect them against pandemic flu. The information was not clear. It wasn't getting out in the right ways. We need to do more to help find reliable sources of information in communities.

I want to add another point about the funding for research that we are advocating. We think we should have new vaccine-based technologies, such as cell-based technology. We rely on production methods that haven't kept pace with the advances in medical science. In order to make a vaccine today, strains of influenza virus are cultivated in chicken eggs. That is a nonsterile environment. Many of the contamination problems we have seen over the last several years have resulted because of this cultivation process. Although we still have to rely on this technology, Senator ROBERTS and I would like to expedite the efforts to increase research into safer, faster, more reliable methods of vaccine production.

I have to emphasize again, however, it is not research alone that will help

us. We can't do great research in the laboratory but then not know where the vaccine is, how to track it and to get it where it needs to be, how to have good information sources. Senator ROBERTS discussed the war game he participated in. There was a lot of confusion. We are trying to cut through that to couple research efforts with the development of a system to track and distribute both seasonal and pandemic influenza vaccine.

Mr. ROBERTS. Over the last several months, the distinguished Senator from New York and myself have worked with our colleagues in the HELP Committee to include the provisions of the bill we discuss today in the Public Health Security and Bioterrorism Preparedness and Response Act—the reauthorization of that bill—or the BioShield II bill to be considered by the committee and the full Senate.

I thank especially Senators BURR, ENZI, and KENNEDY, and their staffs for their willingness to work with us. Senator CLINTON and I strongly believe that the provisions of the bill we discuss today are absolutely relevant and critical to these discussions.

We hope—it is not hope; we are going to insist—that these provisions will be included in any legislation approved by the committee and Senate. As a matter of fact, were it parliamentarily correct, I would ask unanimous consent that the bill be read three times and passed now. We are thankful for all the attention and focus on planning for a pandemic flu, but we also believe a few more steps need to be taken to make sure we are ready. This is why we are urging our colleagues to consider our legislation, the Influenza Vaccine Security Act, and support our efforts on the bioterrorism and BioShield II bills.

I thank Senator CLINTON for her hard work, dedication, and leadership on this issue. I urge my colleagues to think about this and to support this legislation.

I yield the floor.

Mrs. CLINTON. Mr. President, I thank Senator ROBERTS. He brings to this issue the concern that he faces every day on the Intelligence Committee. I agree with him absolutely. This is a national and homeland security issue, as well as a health and economic one. I hope, working with our colleagues on both sides of the aisle in the HELP Committee, we can ensure that the provisions from our legislation will be included within the reauthorization of the bioterrorism and public health emergency legislation. We believe an ounce of prevention is truly worth a pound of cure. We stand ready to work to move this as quickly as possible so we can get a system in place that we can then work on during seasonal influenza time and be prepared for a pandemic flu.

I thank Senator ROBERTS and yield the floor.

NATIVE HAWAIIAN GOVERNMENT REORGANIZATION ACT OF 2005—MOTION TO PROCEED

The PRESIDING OFFICER (Mr. ALEXANDER). Under the previous order, the Senate will resume consideration of the motion to proceed to S. 147, which the clerk will report.

The bill clerk read as follows:

Motion to proceed to S. 147, a bill to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity.

The PRESIDING OFFICER. Under the previous order, the time until 12:45 p.m. will be equally divided between the two leaders or their designees.

The Republican whip.

Mr. MCCONNELL. Mr. President, the history of America has been one of racial inequity, followed by a long but sure path to reconciliation. At the time of this country's founding, a person's race could determine whether he lived in freedom or in slavery.

Fifty years ago, race could still determine where a person could live, what water fountain he could drink from, or what kind of life he could lead.

Today, thankfully, that is no longer true. We have recognized that nearly every time our Government has taken race into account when dealing with its citizens, the effects have been detrimental, if not devastating; and for that reason, as President Kennedy once said, ''Race has no place in American life or law.''

Unfortunately, today, the Senate is considering a bill that would wreck the progress we have made toward a colorblind society.

S. 147, the Native Hawaiian Government Reorganization Act, would not only direct the Government to establish a government based solely on race, it would also seek to confer preferences based on race. It violates the letter and the spirit of the U.S. Constitution, and it must be opposed.

When I say the bill violates the U.S. Constitution, I am referring specifically to the 14th amendment, which was ratified in 1868, after the Civil War, to address unequal treatment based on race.

The 14th amendment reads:

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States . . . nor deny to any person within its jurisdiction the equal protection of the laws.

The 14th amendment was quite clear. The way this bill tries to maneuver around its unconstitutionality is by classifying Native Hawaiians via the Federal Indian law system, and creating a new ''tribe'' of Native Hawaiians.

But this new ''tribe'' is a shell game. Native Hawaiians have never been viewed as an Indian tribe, including when Hawaiians overwhelmingly voted for statehood in 1959.

As recently as 1998, the State of Hawaii itself acknowledged that the tribal concept has no historical basis in Hawaii. Specifically, in Rice v. Cayetano, the State of Hawaii wrote the following in a brief to the U.S. Supreme Court. This is what the State of Hawaii had to say at that time:

For the Indians the formerly independent sovereign entity that governed them was the tribe, but for Native Hawaiians, their formerly independent sovereign nation was the kingdom of Hawaii, not any particular tribe or equivalent political entity. . . .The tribal concept simply has no place in the context of Hawaiian history.

That was in the brief of the State of Hawaii itself in a case in 1998.

Mr. President, the Senate should be an institution that brings America together. Let's not tear apart our common identity as Americans. We should not use this fiction of Indian tribe status for Native Hawaiians to divide our country.

By the way, have I mentioned that not even the people of Hawaii support this bill? According to a poll conducted by the Grassroot Institute of Hawaii, 67 percent of Hawaiians oppose it—two-thirds of the State. Hawaiians overwhelmingly oppose this bill, based upon those survey results.

The U.S. Commission on Civil Rights conducted public hearings on S. 147. They oppose it and recommend against its passage. They oppose it because they believe it is racially discriminatory and divisive. This is what the Commission on Civil Rights had to say about this measure:

The Commission recommends against the passage of the Native Hawaiians Government Reorganization Act . . . or any other legislation that would discriminate on the basis of race or national origin and further subdivide the American people into discrete subgroups accorded varying degrees of privilege.

And it should be pointed out that it seems that private interests who commented on the bill opposed it, with only institutional interests submitting comments in support of the bill. Only institutional interests have advocated for it. But the people, it seems, do not want it.

That includes even some Native Hawaiians. One person who testified before the commission was a Hawaiian named Kaleihanamau Johnson. She told them:

I am of Hawaiian, Caucasian and Chinese descent . . . and do not support the Akaka bill.

Ms. Johnson went on to say that if this bill passes:

I will be forced to choose on which side of the fence to stand. I will choose the Anglo-American tradition of the right to life, liberty, property and the pursuit of happiness. This will prevent me from recognizing all that is Hawaiian in me. I consider the Akaka bill to be a proposal to violate my rights.

Let me share some of the testimony of advocates of Hawaiian statehood from half a century ago. These comments show that Hawaiians entered the

Union with the expectation of being equal to any other of our States. Overwhelmingly, Hawaiians were eager to be Americans. Senator Wallace Bennett of Utah, the father of our good friend, the current Senator from Utah, said in 1954:

> Hawaii is literally an American outpost in the Pacific, completely reflecting the American scene, with its religious variations, its cultural, business and agricultural customs, and its politics.

And former Interior Secretary Fred Seaton wrote to a Senate committee in 1959:

> Hawaii is truly American in every aspect of its life.

I sure hope that is true, in the sense that being American means we do not define and divide people by race, but we transcend that. Every American, regardless of race, has equal freedom to excel. That is why we attract people of all races, from all over the world, who leave behind what they have known and start new lives here.

Because we are a multiracial, multicultural society, and because of the misfortunes that have transpired when this country has looked at its citizens through the prism of race, we must not turn racial preferences into law, as this bill would have us do.

I believe the way forward for our country is for the Government to focus less and less on race, not more and more. To treat people differently based on race implies that, on some fundamental level, race defines who we are.

I believe history has shown that idea to be bankrupt. And I believe that America has led the way in proving it so.

Let's do our best to get this country to a point where race truly has no place, not when it comes to our Government, or to our promise of equal justice under the law.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, how much time remains on our side of the aisle?

The PRESIDING OFFICER. Twenty-one minutes.

Mr. CORNYN. I ask unanimous consent that I be allotted 10 minutes out of that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. Mr. President, yesterday, when I came to the floor and spoke on this legislation—the so-called Native Hawaiian legislation—I indicated that I had profound concerns about the constitutionality of the bill. I might add that it is not sufficient for Members of Congress to say that the courts will clean up the mess after we pass the bill. Indeed, it is our responsibility to uphold and defend the Constitution as Members of the Senate.

Yesterday, we heard a few hours of discussion from both those who support and those who oppose the bill. I have made no secret of my opposition. Simply put, I cannot and I will not support a bill the purpose of which is to divide America and is based upon race, and which is clearly contrary to our fundamental American principle of equal justice under the law.

The bill would create a separate race-based government for Native Hawaiians to the exclusion of all other Americans. And because of its very focus on race, the legislation creates particularly troublesome constitutional problems. In fact, it appears to be designed to be an end-run around the U.S. Supreme Court decision in the year 2000, in Rice v. Cayetano, a Ninth Circuit Court of Appeals decision which has struck down the practice of segmenting Hawaiians based upon race. I mentioned the 2000 decision in Rice v. Cayetano. That was a 7-to-2 decision which struck down the ancestry requirements for voting for the Office of Native Hawaiian Affairs trustee elections. The Court found that because ancestry was a proxy for race and the election was an affair of the State, it was in violation of the Constitution, and particularly the 15th amendment to the Constitution.

Justice Kennedy, writing for the majority, makes clear why the very purpose of S. 147 creates broad constitutional concerns:

> One of the reasons race is treated as a forbidden classification is that it demeans the dignity and worth of a person to be judged by ancestry instead of by his or her own merit and essential qualities. An inquiry into ancestral lines is not consistent with respect based on the unique personality each of us possesses, a respect the Constitution itself secures in its concern for persons and citizens.

Some say this bill simply equates Native Hawaiians to Indian tribes. But Congress cannot simply and arbitrarily create Indian tribes where they don't exist. The Constitution does not authorize Congress to make Indian tribes out of subsets of Americans who have no relationship whatsoever to an Indian tribe. The Supreme Court has been clear that Congress may not insulate a program from the Constitution's strict scrutiny for legal distinctions based upon race by ''bring[ing] a community or body of people within the range of this [congressional] power by arbitrarily calling them an Indian tribe.''

In addition, the 14th amendment precludes the use of race in making appointments—something clearly contemplated by this bill. This bill perhaps most clearly raises constitutional concerns in its direct contravention of the Supreme Court ruling in Rice. The legislation would require that the Department of the Interior manage a special election in which eligibility depends entirely on race. As I have pointed out before, the Court made clear that racial restrictions relating to Native Hawaiians is prohibited by the 15th amendment.

In summary, in its attempt to pigeonhole Native Hawaiians as equivalent to an Indian tribe and to create a governmental entity based entirely on race, S. 147 runs counter to the express letter and certainly the spirit of the Constitution.

Unfortunately, despite these clear constitutional problems, it seems that some in the Senate are content to acquiesce—to accept passing an unconstitutional bill, while passing the buck to the courts to bail us out. Yet just 2 days ago, my colleagues on the other side of the aisle were talking about what they thought was ''wasting time'' on defending marriage, a basic institution—perhaps the most basic institution—in our society.

And yet they are willing to spend a week debating a measure that has little chance of passing and that flies squarely in the face of the Constitution. I find these inconsistencies difficult to reconcile.

The sponsors of this legislation last year wrote a Dear Colleague letter that suggests that any constitutional inquiries should be left to the courts, the implication of which is Congress should not concern itself with the bill's constitutionality. I could not disagree more.

When I came to Washington, I, like the rest of my colleagues, swore an oath to defend and uphold the Constitution of the United States. That pledge is non-negotiable and does not allow, much less require, me or any Member of the Senate to defer our obligations to pass legislation that reasonably appears to be within the four corners of the United States Constitution.

Congress is required to uphold the Constitution, as are judges. More importantly, it is imperative that we pass legislation that furthers the principles of the Constitution rather than dissolve them. A constitutional commitment to equal justice for all would be undermined should we choose today to endorse the creation of a race-based government. This is not a question that should be passed off to the courts. We should decide right here and right now.

I urge my colleagues to vote against cloture on the motion to proceed. If they are serious about working on issues that really matter, I urge them to allow the Senate to move on to consider other pressing business.

I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). Who yields time?

The Senator from Hawaii.

Mr. AKAKA. Mr. President, I encourage my colleagues to vote with me to invoke cloture on the motion to proceed to S. 147, the Native Hawaiian Government Reorganization Act of 2005.

I begin by expressing my deep appreciation to the cosponsors of this legislation and to the Senators who spoke in support of bringing this bill forward for debate. I especially thank the Senator from Illinois, Mr. OBAMA, and the ranking member of the Indian Affairs Committee, Senator DORGAN, for their support.

I also thank the Senators from Alaska who shared their experiences encountered 35 years ago when Alaska

Natives sought to address similar issues when Congress enacted the Alaska Natives Claims Settlement Act.

It is ironic that the same arguments used against that bill, which has been incredibly successful and has served to unite rather than divide the people of Alaska, are being used against our efforts today to bring parity in Federal policies to Hawaii's indigenous peoples.

Beginning with the debates of the Continental Congress and continuing in the records of discussion and correspondence amongst the Framers of the Constitution, it was recognized that the aboriginal indigenous people who occupied the lands now comprising the United States had a status as sovereigns that existed prior to the formation of the United States.

Based upon the recognition of that preexisting sovereignty, the U.S. Constitution, article I, section 8, clause 3, vests the Congress with authority to regulate commerce just as with foreign nations in numerous rulings of the last 215 years. The U.S. Supreme Court has repeatedly held that legislation enacted to address the special concerns and conditions of the native people of the United States is constitutional and does not constitute discrimination on the basis of race or ethnicity because the sovereign status of the Indian tribes is a basis for the government-to-government relationship that tribes have with the United States.

The court has consistently drawn a distinction between legislation that addresses the conditions of native people of the United States and legislation that addresses conditions of specific groups whose members are defined only by reference to their race or ethnicity.

According to the court decisions, the United States has a political and legal relationship with Indian tribes that is not predicated on race or ethnicity but, rather, on sovereignty.

The status that the Constitution recognizes in Indian tribes was later extended to Alaska Natives in their capacity as aboriginal indigenous people of the United States, and it is on that same basis that the Congress has enacted legislation for aboriginal indigenous people of Hawaii.

I know the senior Senator from Hawaii, Mr. INOUYE, is going to address this more when he speaks, but I want to comment on a disturbing conclusion that was made by some of my colleagues yesterday.

Somehow efforts to recognize Native Hawaiians are perceived as un-American. Native Hawaiians are proud—proud—to be Americans. A number of Native Hawaiians in the Hawaiian National Guard returned from Operation Iraqi Freedom this spring, after having spent 18 months away from their families. Some of our most celebrated heroes who have died in the war have been Native Hawaiians. It is offensive to me as a veteran and as a Native Hawaiian that my efforts to ensure justice and parity for Hawaii's indigenous peoples are being characterized as un-American. I beg to differ.

A federally recognized native government does not cause an indigenous person to lose his or her status as an American citizen. The concepts are not mutually exclusive. I remind my colleagues of the 556 native governments that have federally recognized government-to-government relationships with the United States. I don't see anyone characterizing our Native American brethren as being un-American. To do so in this case is another injustice to indigenous peoples, not only from Hawaii but from our great Nation.

The Senator from Tennessee, a good friend whom I admire, argued yesterday that this bill is about sovereignty. I agree, it is about sovereignty within the bounds of existing Federal law. The political and legal relationships between Native Hawaiians and the United States already exist, as evidenced by the 160 Federal statutes that have been enacted to address conditions of Native Hawaiians.

The Federal policy of self-governance and self-determination allows for a government-to-government relationship between indigenous peoples. This is not new. It exists right now between the United States and 556 native governments. The continued representation of this bill as unprecedented new action is just plain wrong.

Native Hawaiians are the indigenous aboriginal people of the lands which now comprise the State of Hawaii. Prior to their overthrow, the native government, the Kingdom of Hawaii, was recognized by the United States. The fact that the kingdom included non-natives within its government does not make it a non-native government. It is clear that the Kingdom of Hawaii was a preexisting native Government.

Hawaii is the homeland for Native Hawaiians. That is what makes them different from other ethnic groups. That is what makes them like the 556 native governments that are federally recognized and engaged in a government-to-government relationship with the United States.

This bill embodies the goals of this Nation—fairness, justice, liberty for all. A federally recognized government-to-government relationship with the United States does not make Native Hawaiians un-American. Being Native Hawaiian and American are not mutually exclusive, no more than being an American Indian or Alaska Native and being American.

Mr. President, 556 native governments enjoy this relationship. The question is: Why not Native Hawaiians? The only argument I am hearing is that Native Hawaiians are not native enough, and I beg to differ. This is why the bill needs to be brought to the floor for debate. This is why my colleagues should vote to invoke cloture on the motion to proceed. At a minimum, it is what the people of Hawaii deserve.

My colleagues have said that Hawaii is a melting pot, perhaps the greatest melting pot in the United States, and I agree. However, I like to think of it not as a melting pot where everyone loses their individuality, but I would like to think of it as a rainbow. Each color of the rainbow represents a different culture. The more we are in touch with our culture and tradition, the brighter and more vivid is the color. Taken together, we combine to make something very beautiful.

My colleagues, however, would rather everyone be melded into one color, monotone. I believe we are intelligent, articulate beings who are able to celebrate our nationality in addition to preserving, understanding, and practicing our culture and traditions.

One of my colleagues referred to statehood and its supposed agreement that Native Hawaiians would not be treated any differently from any other citizens. Debate transcripts from the Constitutional Convention of 1950, which developed the Constitution that was used in 1959 when Hawaii became a State, clearly show an effort to protect Native Hawaiians and their culture. The 1950 Constitutional Convention adopted as a provision the Hawaiian Homes Commission Act of 1920, passed by the Congress in 1921, which established a homesteading program for Native Hawaiians in an attempt to offset the tremendous decline in their numbers and to ensure continuation of their culture. The Convention also adopted a provision accepting a compact with the Federal Government to continue the trust obligation associated with the Hawaiian Homes Commission Act and providing that congressional consent would be required for an amendment to decrease lessee benefits or alter lessee qualifications.

Inclusion in the Constitution as early as 1950 shows recognition of Native Hawaiians as Hawaii's indigenous peoples and reflects the widespread support for the preservation of Native Hawaiian culture, custom, and tradition. Unlike many of the other Western States' enabling laws, the Hawaii Admissions Act and the Alaska Statehood Act expressly recognized and preserved the rights of the indigenous native people in those two States. The Hawaii Admissions Act not only provides for the protection of land set aside under Federal law for Native Hawaiians but further directs that revenues from lands ceded back to the State are to be used for five purposes, one of which is the betterment of the conditions of Native Hawaiians.

I would also like to address the report issued by the U.S. Commission on Civil Rights. The U.S. Commission on Civil Rights was established to serve as an independent and bipartisan fact-finding agency to investigate and report on the status of civil rights in our country. The GAO just issued a report highlighting the Commission's lack of policies to ensure that its national products—its briefings, reports, and hearings—are objective and that the Commission is sufficiently accountable for decisions made on these projects.

Take this issue, for example. In January, the Commission determined it

would hold a briefing on this legislation we are considering. The Commission failed—the Commission failed—to consult with the Hawaii State advisory committee, which is composed of experts on civil rights in Hawaii. This is not a new issue. In fact, the Hawaii State advisory committee has previously issued three reports addressing the political and legal relationship between Native Hawaiians and the United States. The Hawaii State advisory committee members tried to participate in the process, and their efforts were rebuffed. This was not a case of being overlooked; this was a case of being shut out by that Commission.

The Commission was provided with a substitute amendment that we negotiated with the executive branch in January by my staff. In addition, provisions of the amendment were discussed during that briefing. Yet in May of this year, when the Commission voted to issue its report, it based its decision on the bill as reported out of committee, not the bill we will actually be debating and voting upon.

In addition, the Commission's report has no analysis, no findings in it. The report is a summary of testimony made by witnesses and a conclusion that the legislation is race-based—again, no analysis, no findings.

Further, upon reviewing the transcript, it is clear to me that the majority of the Commissioners were not familiar with Hawaii's history, with Federal Indian law, or with the legislation itself at the briefing. Again, this is where the expertise of the Hawaii State advisory committee to the Commission would have been helpful, yet their efforts were rebuffed.

The two Commissioners who dissented read the bill. They read the bill. That was obvious in their dissents which actually analyze the bill and Hawaii's history.

I question such actions, as they leave me with little doubt that there are those who used this process for political reasons—to the detriment of Hawaii's indigenous peoples and the people of Hawaii. My conclusion is supported by the recent GAO report criticizing the Commission as lacking policies to ensure objectivity in its hearings and briefings and accountability in its conclusion. And they have issued that report.

In addition, on June 6, a Resolution of No Confidence was adopted by current and former State advisory committee chairpersons regarding the Commission's commitment to fulfilling statutory and regulatory obligations to the State advisory committees. This saddens me greatly, as many of us have tremendous respect for the Commission. And I repeat, we have tremendous respect for the Commission, but that respect is based on our reliance on the Commission as an independent, bipartisan, factfinding agency. There was little independence, bipartisanship, or factfinding in the Commission's consideration of this legislation. That an agency with such an important mission would succumb to a political agenda is disgraceful and offensive.

Last night, the Department of Justice issued a letter expressing opposition to S. 147. This is understandable and, of course, not surprising. The administration voiced these concerns last July. That prompted 3 months of negotiations with Hawaii's congressional delegation and Governor with the Department of Justice, Office of Management and Budget, and the White House officials. The result of those negotiations is S. 3064, which the majority leader put on the calendar this week. If the Senate invokes cloture on S. 147, the language of S. 3064 will be offered as a substitute. That language, agreed to with the administration, addresses the administration's policy concerns with the original bill.

The administration's letter of last July noted constitutional concerns with the legislation. As the floor debate yesterday demonstrated, disagreement over those constitutional questions exists and, if the legislation is enacted, would rightfully be left to the courts to decide. The substitute amendment addresses liability of the United States, ensures that military readiness is preserved, prohibits gaming, and ensures that civil and criminal jurisdiction remains with the State and Federal Governments until negotiated.

I ask my colleagues who have only had the time to listen to characterizations of the bill and sound bites of perceived impacts to actually take a look at this bill. It is not often that we can get almost every policymaker in Hawaii to agree on an issue. Except for two people in the State legislature, every other policymaker in Hawaii supports authorizing a process for the reorganization and recognition of a Native Hawaiian governing entity for the purposes of a government-to-government relationship. We are the people who deal with this every day. I ask you, at a minimum, to give us an opportunity to share more information about this with you. Don't make your decision based on someone else's characterization of the bill if you have not taken the time to read it and understand it. The people of Hawaii—native and nonnative—deserve more than that.

I stand here and ask my colleagues to vote for cloture so that we can further address these matters. I ask all of you to give us the courtesy of at least a debate on this bill.

I have heard the opposition, and again I say that we have had good relationships which will continue, and I want to voice the reasons we need this bill because as we pledge daily, under God, with liberty and justice, we do this.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Tennessee.

Mr. ALEXANDER. How much time is remaining on our side?

The PRESIDING OFFICER. There is 12 minutes 50 seconds remaining.

Mr. ALEXANDER. Mr. President, I ask the Chair to notify me when 10 minutes has lapsed.

Mr. President, I wish to begin as I began yesterday, by expressing my respect for the Senators from Hawaii, and it is genuine, it is a genuine respect. I also wish to begin by making it absolutely clear that there is no question about whether Hawaiians, including Native Hawaiians, are Americans. Hawaiians, including Native Hawaiians, are Americans, as good Americans as any Americans, and that is why this bill is a bad bill.

Hawaiians became U.S. citizens in 1900. They have saluted the American flag. They have paid American taxes. They have fought in American wars. The distinguished senior Senator from Hawaii has won the highest honor our Nation gives to an American warrior. In 1959, 94 percent of Hawaiians reaffirmed that commitment to become Americans by voting to become a State. Like citizens of every other State, Hawaiians vote in national elections.

My argument is that since Hawaiians have chosen to become Americans and distinguish themselves as Americans, that is the reason we should not move forward to allow a small group of Hawaiians, who live in every State in the Nation, to form a new government, a sovereign entity, which would be empowered to negotiate, as was said yesterday on this floor, the question of secession from the United States, the question of transfer of land to this new entity, the question of the transfer of money to this new entity, and the question of civil and criminal laws to this new entity.

When we began this discussion, many Senators were saying: Wait a minute, you are mischaracterizing this bill; it is not about sovereignty, it is not about land and money, it is not about race. But I think we have clearly established—and I believe it is a fair characterization of what the Senator from Hawaii has just said—that it is about sovereignty. It is clearly about race because you can't be a member of this new government unless you have Native Hawaiian blood; it may be only a drop of blood. So it is based on race. So the only possible argument to justify doing what no group of American citizens would ever be allowed to do in the United States is that this is just another Indian tribe, just another tribe. I want to address that in just a moment.

United States law, of course, does recognize Native American tribes, and the contention here today, from the Senators from Hawaii, is that this is just another tribe. That is a different contention than the State of Hawaii made a few years ago, in 1998. There, in the case of Rice v. Cayetano, the brief of the State of Hawaii said, ''the tribal concept has simply no place in the context of Hawaiian history.'' This is what the State of Hawaii said in 1998 before the Supreme Court.

Yesterday the Department of Justice Assistant Attorney General of the United States wrote a letter to the majority and minority leaders of the U.S. Senate saying that the administration strongly opposes this piece of legislation. It first discusses the constitutional objection to creating a race-based government, which clearly violates our Constitution and turns that original motto of this country, ''from one, many,'' upside-down. The letter from the Assistant Attorney General goes on to say:

While this legislation seeks to address this issue by affording federal tribal recognition to native Hawaiians, the Supreme Court [of the United States] has noted that whether native Hawaiians are eligible for tribal status is a ''matter of dispute'' and of considerable moment and difficulty.

The Assistant Attorney General goes on:

Given the substantial historical structure and cultural differences between native Hawaiians as a group and recognized federal Indian tribes, tribal recognition is inappropriate for native Hawaiians and would still raise difficult constitutional issues.

I ask unanimous consent to have the letter from the Assistant Attorney General printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE ASSISTANT ATTORNEY GENERAL,
Washington, DC, June 7, 2006.

Hon. BILL FRIST,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. LEADER: The Administration strongly opposes passage of S. 147. As noted recently by the U.S. Civil Rights Commission, this bill risks ''further subdivid[ing] the American people into discrete subgroups accorded varying degrees of privilege.'' As the President has said, ''we must . . . honor the great American tradition of the melting pot, which has made us one nation out of many peoples.'' This bill would reverse that great American tradition and divide people by their race. Closely related to that policy concern, this bill raises the serious threshold constitutional issues that arise anytime legislation seeks to separate American citizens into race-related classifications rather than ''according to [their] own merit[s] and essential qualities.'' Indeed, in the particular context of native Hawaiians, the Supreme Court and lower Federal courts have invalidated state legislation containing similar race-based qualifications for participation in government entities and programs.

While this legislation seeks to address this issue by affording federal tribal recognition to native Hawaiians, the Supreme Court has noted that whether native Hawaiians are eligible for tribal status is a ''matter of dispute'' and ''of considerable moment and difficulty.'' Given the substantial historical, structural and cultural differences between native Hawaiians as a group and recognized federal Indian tribes, tribal recognition is inappropriate for native Hawaiians and would still raise difficult constitutional issues.

Sincerely,

WILLIAM E. MOSCHELLA,
Assistant Attorney General.

Mr. ALEXANDER. As to the charge the U.S. Civil Rights Commission didn't review this carefully, I will ask unanimous consent to have a letter to Senator CORNYN printed in the RECORD. It is from a member of the Commission, Peter N. Kirsanow, writing in his individual capacity, who details the careful attention, he says, that the Commission gave to the legislation.

He says, in addition, ''I maintain that it is the worst piece of legislation the commission has reviewed during my tenure.''

I ask unanimous consent to have that letter printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Hon. JOHN CORNYN,
Chairman, U.S. Senate Subcommittee on Immigration, Border Security and Citizenship.

DEAR SENATOR CORNYN: The U.S. Commission on Civil Rights (''Commission'') found significant problems with the proposed Native Hawaiian Government Reorganization Act (S. 147), also known as the Akaka bill. I maintain that it is the worst piece of legislation the Commission has reviewed during my tenure.

The Commission went to great lengths to ensure that its report on the Akaka bill (''Report'') was thorough, well-reasoned and objective. Much of the Report was based upon testimony from a balanced panel of expert witnesses. Public comment on the Akaka bill also was solicited and a number of responses were received from a variety of perspectives—both pro and con. The ABA, for example, issued a letter supporting the bill. Others opposed it. The Commission considered all of these responses and modified the Report based on valid concerns of those critical of some of the provisions in earlier drafts. The final Report reflects these recommendations, reaffirming its balance.

The Report was subjected to rigorous controls, several layers of review, checks and balances to insure its accuracy and integrity. Any attempt to discount the Report's findings on the basis of a GAO report that the Commission somehow lacks procedures for insuring objectivity is completely misdirected. The GAO report cited by proponents of the Akaka bill does not relate to the Report. Rather, the GAO's findings relate largely to the lack of internal controls at the Commission during and resulting from the previous management that had failed, among other things, to conduct an audit in 12 years; and was repeatedly excoriated for issuing reports perceived as biased.

Since assuming a majority on the Commission over a year ago, the Republican commissioners, along with our new Democrat colleagues, have worked vigorously to adopt all previous GAO reform recommendations and to implement a broad series of internal controls and procedures to insure the integrity of Commission reports. These procedures were adopted well before the Commission hearing on the Akaka bill and the issuance of the Report. (For example, the hearing had an equal number of witnesses on each side of the issue, something the Commission was not necessarily known for in prior years).

The Commission's Report on the Akaka bill represents a fair, rigorous and objective assessment of the bill. Although I am writing in my individual capacity, I am sure that the majority of my colleagues hope that the Senate, in it's deliberations on the Akaka bill, gives the Report serious consideration.

Sincerely,

PETER N. KIRSANOW,
Commissioner,
U.S. Commission on Civil Rights.

Mr. ALEXANDER. Mr. President, what do we have here on the issue of ''just another tribe''? Under the United States law, as we have said several times, there are specific requirements for the recognition of an Indian tribe. The U.S. Government does recognize those tribes. But it has not created any tribe. This would be the creation, the establishment of a new sovereign government.

Here is what the law says:

The tribe must have operated as a sovereign for the last 100 years.

Native Hawaiians have not. It says:

Tribes must be a separate and distinct community.

Native Hawaiians are not. They live in every State of the United States of America; 160,000 live outside of Hawaii. Only 20,000 live on the Native Hawaiian homelands.

It further says:

A tribe must have had a preexisting political organization.

The Native Hawaiians did not. That is why, I suppose, the brief of the State of Hawaii acknowledged in the Supreme Court of the United States, in 1998, ''The tribal concept simply has no place in the context of Hawaiian history.''

In the history of our country, as it grew and developed, there have been many wrongs. The men who wrote our Constitution, setting our high goals, were only men. And women didn't even have the right to vote in the United States until 100 years ago. Those who wrote the Constitution locked out the press. The press would say today that is a wrong. Those who wrote the Constitution, many of them, owned slaves. That was a terrible wrong.

But our history is filled with reaching high goals to address and correct those wrongs, and doing it as a Nation, as Americans, all of us together. We are proud of our nationalities, of where we come from. But when we become Americans, as Hawaiians did when they became a State in 1959, we pledge allegiance to the United States of America. This bill would create a new competing government. That is what is wrong with this bill. It is the wrong way to right whatever wrongs may have happened in Hawaii.

The PRESIDING OFFICER. The Senator has consumed 10 minutes.

Mr. ALEXANDER. It is my hope that my colleagues will vote no on this bill. Perhaps there are other ways that the Congress can help the distinguished Senators from Hawaii address wrongs which may have existed in Hawaii. But if that motto means anything, ''E pluribus unum,'' and if the constitutional prohibition against making distinctions based on race means anything, then we should not be authorizing a new sovereign government capable of negotiating secession, land, money, civil and criminal penalties—admission to which is only based upon race. The U.S. Department of Justice, the Supreme Court, the State of Hawaii itself—all have said this is not a tribe. Hawaiians are proud Americans,

which is why this bill should be rejected.

Mr. ENZI. Mr. President, I rise in strong opposition to S. 147, the Native Hawaiian Government Reorganization Act of 2006. We must celebrate racial diversity in our Nation. Racial diversity defines the cultural norms and values that make America the ''melting pot'' that is so amazing. America's foundation is built upon many diverse races and cultures uniting to become one Nation, but while we can celebrate those diverse cultures, we must remember that we are all Americans and we must work to bridge gaps, not widen them.

Every day millions of Americans pledge their allegiance to our flag. They stand for the freedoms and rights guaranteed by our Constitution. One of the essential clauses of this pledge remains, ''one Nation, under God, indivisible, with liberty and justice for all.'' A source of our strength is our diversity, and still, despite our diversity, we are melded as one Nation, under God.

When I return to Wyoming, I often attend swearing in ceremonies. It is an honor to watch people become citizens of this great Nation. Swearing in ceremonies are moving experiences that I cherish. At a swearing in ceremony, people from every background and every nation come together to celebrate America. Every American should take the time to watch a swearing in ceremony because when they do, they will realize the privilege that comes with being an American citizen. They come in as citizens of India, China, Mexico, Germany, and many others, but they leave as Americans.

Although many citizens of this country practice and honor diverse traditions that are unique to their culture, one core similarity exists: we are all Americans. Racial diversity is important, but it should not be the rationale for the establishment of a separate sovereign government.

Wyoming is the home to the Eastern Shoshone and Northern Arapahoe Tribes on the Wind River Indian Reservation. As part of the United States, these tribes have been recognized for nearly 150 years as sovereign nations. The Eastern Shoshone community was granted sovereignty during the Treaty of Fort Laramie in 1863 before Wyoming became a State. Over the years, other Native American and Alaskan tribes gained sovereignty by meeting the criteria laid out in our laws. Native Hawaiians now seek sovereignty similar to that of Native Americans and Alaskan Natives through this legislation.

While I understand their desire to be granted sovereign immunity, the facts and circumstances surrounding Native Hawaiians are different. It does not make sense to waive or change the requirements that others had to meet.

Our Government has never created an Indian tribe. Sovereignty has only been granted to preexisting tribes and only in special, rare circumstances after statehood.

In order to be federally recognized, a tribe must meet several criteria. A tribe must prove it existed and operated as a tribe for the past century. Additionally, the tribe must distinguish itself as a separate and distinct community both geographically and culturally. Finally, the tribe must have a preexisting political structure that is clear. Native Hawaiians do not meet these criteria.

A distinct community does not exist according to the standards outlined in the proposed legislation. Within the United States and the State of Hawaii, Native Hawaiians live integrated among all races.

During the ''fall'' of Queen Liliuokalani, a ''Native Hawaiian'' government was not present. All races coexisted under the reign of the monarchy. Non-natives even held high positions within the government.

In 1898, at the time of annexation, there was no political effort to treat Native Hawaiians similar to Alaska Natives or Native American tribes. The same held true when 94 percent of Hawaiians voted to become a State in 1959. Ninety-four percent of Hawaiians voted to become Americans. In fact, at that time, advocates of Hawaiian statehood emphasized the cohesive diversity, the ''melting pot'' nature of Hawaii.

In addition, in 1998, the State of Hawaii's Supreme Court brief from the case of Rice v. Cayetano expressed the government's belief that, ''The Tribal concept simply has no place in the context of Hawaiian history.''

If the proposed legislation passes, the progress we have made over the past century to improve racial equality regresses. Instead of uniting the country, we divide it, and some of the darkest hours of this Nation occurred when people were separated because of race. This legislation is based solely on the ideology of race.

We are all Americans, and as such, we need to be united. Although I respect the desire of Native Hawaiians to be a federally recognized sovereign nation, I strongly urge my colleagues to oppose S. 147.

Mr. MCCAIN. Mr. President, today we will vote on the motion to proceed to S. 147, the Native Hawaiian Government Reorganization Act of 2005. This legislation was passed by the Indian Affairs Committee on March 9, 2005. The bill is similar to a bill reported by the Committee during the 108th Congress that was not brought before the full Senate.

S. 147 was developed to provide Native Hawaiians with a mechanism for self-governance and self-determination, which the bill's sponsors believe would protect from legal challenges a variety of programs and services currently in place for the benefit of Native Hawaiians. To achieve this goal, the bill would establish a process that would permit Native Hawaiians to organize a sovereign entity that would have a legal relationship with the United States similar to that which exists today between the United States and federally recognized Indian tribes.

I recognize that this legislation has been offered in response to many legitimate concerns expressed by the members of the Hawaii delegation and the State's Governor. The leaders of the State of Hawaii are attempting to ensure that a longstanding agreement between the Federal Government and Hawaii will not be jeopardized by litigants determined to undermine certain aspects of that agreement relating to Native Hawaiians. That does not change the fact that I have serious doubts about the wisdom of this legislation.

The sponsors reached an agreement in the 108th Congress that they would be afforded an opportunity to bring the bill to the Senate floor during this Congress. To fulfill that agreement, in my capacity as the chairman of the Indian Affairs Committee, I have worked to ensure that the legislation would be reported by the committee. I will also support the motion to proceed to the bill's consideration because of the agreement that was reached in the last Congress. I would like the record to reflect clearly, though, that I am unequivocally opposed to this bill and that I will not support its passage should cloture be invoked.

Again, I do know how important this legislation is to the Senators from Hawaii and certainly to the very capable Governor of the 50th State. I am very much aware that one of the purposes of this legislation is to insulate current Native Hawaiian programs from constitutional attack in the courts, and I am sympathetic to that purpose. I commit to the Senators and the Governor that I remain willing to work with them to address the fundamental legal concerns facing their State. I also recognize the efforts made by Senator AKAKA to address some of the criticisms that have been leveled at this legislation. However, I still have a number of significant concerns with this measure.

Foremost among these concerns is that, if enacted, S. 147 would result in the formation of a sovereign government for Native Hawaiian people. I am sure that the sponsors have good intentions, but I cannot turn away from the fact that this bill would lead to the creation of a new nation based exclusively—not primarily, not in part, but exclusively—on race. In fact, any person with even a drop of Hawaiian blood would qualify to vote on the establishment of this new, legislatively created entity that would then negotiate with the Federal Government of the United States and the State of Hawaii on potentially unlimited topics.

As the U.S. Commission on Civil Rights stated in its recent report recommending against passage of S. 147, this bill would ''discriminate on the basis of race'' and ''further subdivide

the American people into discrete subgroups accorded varying degrees of privilege.'' This is unacceptable to me, and it is unacceptable, I am sure, to most other citizens of this Nation who agree that we must continue our struggle to become and remain one people—all equal, all Americans.

Mr. REID. Mr. President, I will use my leader time now.

The PRESIDING OFFICER. The Senator is recognized.

Mr. REID. Mr. President, I have had the good fortune to serve here in Washington almost a quarter of a century. I have had the good fortune of serving with wonderful people, both when I served in the House and when I have had the opportunity to serve here in the Senate. As I look back over the delegations from the respective States here during my service in the Senate, there are no two finer men, no two finer persons who have ever served in our Senate than the two Senators who now represent the State of Hawaii. Senator AKAKA and Senator INOUYE are two of the best.

Everyone knows, because I have stated here on the floor, how I feel about DAN INOUYE. I have never, ever known a person for whom I have more respect and admiration than I do DAN INOUYE. Think about that: A man who has earned the highest award this country can give for heroism, the Medal of Honor; DAN AKAKA, who served in the military.

We live in a country that is a Federal Government. What does that mean? It means, as I learned in college, that you have a central whole divided among self-governing parts. What are those self-governing parts? It is the State of Nevada, it is the State of Florida, it is the State of Tennessee, and it is the State of Hawaii—plus 46 others; none better than the other. Hawaii is equal to Florida, to Tennessee, to Nevada.

Let's talk about Nevada. Nevada has been a State for a long time, since 1864. Hawaii is one of the two new kids on the block, along with Alaska. But take Nevada as an example. The State of Nevada has 22 different Indian tribes and Indian entities. The State of Nevada knows they are there. It works just fine. It doesn't take away our sense that we are part of the Federal Government. We need to treat Hawaii as we do other States.

Some have said here that it is going to change the State of Hawaii. I think we should give the Senators from the State of Hawaii a little bit of credit for doing what is right for their State. We are scheduled to vote in just a short time on a motion to proceed to S. 147, the Native Hawaiian Government Reorganization Act. This vote provides all Senators an opportunity to do right by Native Hawaiians, and just as importantly by Hawaii's two very distinguished Senators, about whom I have just spoken.

A look at the historical record of Native Hawaiians demonstrates the importance of this legislation. That is why the two Senators from Hawaii have worked tirelessly on its behalf.

I can remember when this vote was scheduled previously. It was within a day or two of when Katrina hit. In Washington at the time was the Governor of the State of Hawaii. She believed just as strongly as these two men that it was good for Hawaii. It was bipartisan. She is a Republican and these are two Democrats.

From their very first contacts with the western world more than two centuries ago to today, Native Hawaiians have endured a lot—just as the Native American Indians in Nevada endured a lot, a whole lot. While the Native Hawaiians have done so much, with such quiet dignity and courage, it should be clear to all of us that they now require our attention.

This legislation will do several things. First, it establishes a process for the reorganization of the Native Hawaiian Government Authority. There is nothing wrong with that. There is nothing different from the Pyramid Paiute tribe in northern Nevada. Pyramid is named after the lake there, Pyramid Lake.

It is no different from the Owyhee Indians in the northeastern part of our State. How would you get a name that sounds like Hawaii? Their reservation is Owyhee because well more than 100 years ago some Hawaiians came there to trap, and that is the last we heard of them. But the name never left. Hawaii, Owyhee. It is a sovereign tribe in Nevada. It has Hawaiian roots—at least the name. We are proud of them, the Indians. That reservation is made up of Shoshonis and Paiutes.

Second, this legislation, after the process has run its course and a Native Hawaiian governing entity is established, just like the tribal government, Walker River, that we have with the Paiute tribe, the bill reaffirms the special political/legal relationship between the U.S. Government and that entity, just like the Las Vegas Indian colony.

Third and perhaps more important, in the words of an editorial in Wednesday's New York Times, ''this legislation offers a chance for justice in Hawaii.''

Although arguments for why the Senate should address the legislation are crystal clear, I think the integrity of the U.S. Senate is on the line here. I think the integrity of the Senators who seek this opportunity merit attention. I have addressed myself to that.

The chance for justice in Hawaii—that is what this is all about. Hawaii is no different than Nevada. Native Hawaiians are no different than the Indians in Nevada.

The PRESIDING OFFICER. Who yields time? The Senator from Hawaii.

Mr. INOUYE. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 6 minutes and 37 seconds.

Mr. INOUYE. Mr. President, before proceeding I would like to thank my leader, the Senator from Nevada, for his very generous remarks. I appreciate that very much.

I rise today in support of S. 147, the Native Hawaiian Government Reorganization Act and to address the outrageous mischaracterizations that some of my colleagues made yesterday about this measure. The law does not support their attempts to discriminate against Native Hawaiians so my colleagues had to resort to trying to confuse the issue.

This measure does not result in race discrimination. But discrimination will occur if this measure is not passed. It is undisputed that Native Hawaiians are the aboriginal, indigenous people of Hawaii. Yet some of my colleagues want to discriminate against them and treat them differently from other Native Americans—the American Indian and the Alaska Native. They seek to impose a new requirement for Congressional legislation to authorize the reorganization of a Native Hawaiian government even though many of these opponents have been in Congress for years and did not impose this requirement on the other aboriginal indigenous people recognized by Congress since 1978. Do not participate in these discriminatory activities.

Congress has plenary authority over the aboriginal, indigenous people of America. The Supreme Court has repeatedly upheld this. The Supreme Court has also acknowledged Congress' authority to recognize as an Indian tribe the aboriginal, indigenous people of America regardless of whether they are Indians, regardless of whether they are organized as a tribe, and regardless of whether they are located in territory of the United States. My colleagues who spoke against this measure yesterday know this. But none of them attempted to address these issues.

Rather, they are trying to distract us and the American people by claiming that this bill will strip Native Hawaiians of their American citizenship. My colleagues know better than this. They know that Indian tribes, however they are formed, are recognized as sovereign governments in the United States. They know that since the early 1800s the Supreme Court has called the Native governments of this land—domestic, dependent nations. They know that the status and existence of Native governments is recognized within our form of government. But they are relying on the fact that many of our citizens are not familiar with Native American governments so that they incite fear of racial preference, denial of rights, and secession.

Although the United States of America does not recognize dual citizenship for those who come from other countries, the United States does recognize that Native Americans can be both citizens of the United States and members of their Native government. This is true even for those Native Americans located in the lower 48, whose

tribal governments were terminated in the 1950s, or whose tribal governments were restored or recognized over the last 30 or so years. This bill will lead to a similar situation for the Native Hawaiians. It is not inconsistent with what already exists in the United States.

Native Hawaiians do live as separate and distinct communities. In 1921, Congress enacted the Hawaiian Homes Commission Act of 1920, which set aside approximately 203,500 acres of land for homesteading and agricultural use by Native Hawaiians. The Act was intended to ''rehabilitate'' the Native Hawaiian race, which was estimated to have dropped from between 400,000 and 1 million, to 38,000. At the time, prevailing Federal Indian policy was premised upon the objective of breaking up Indian reservations and allotting lands to individual Indians. Most of the homestead communities belong to an organization called the State Council of Hawaiian Homestead Associations. The Council is composed of 24 separate Native Hawaiian Homestead Associations. These associations are distinct and separate communities of Native Hawaiians.

Aside from living on Hawaiian homelands, there are communities that are distinctly Native Hawaiian. Through Native Hawaiian social and political institutions such as the Royal Hawaiian societies which existed during the Kingdom of Hawaii as well as the Association of Hawaiian Civic Clubs, Kamehameha Schools, and Queen Liliuokalani Children's Center, the Native Hawaiian community has maintained its distinct character as an aboriginal, native people.

Native Hawaiian culture, tradition, custom, and language has experienced a renaissance in the past 30 years. Many Native Hawaiians speak the Hawaiian language and practice the cultural practices of our kupuna, our ancestors, in health care and in education.

In another attempt to incite fear of this bill, some of my colleagues stated that this measure would lead to Hawaii seceding from the United States. Yes, a small percentage of my constituents advocate for Independence from the United States. It is an extreme view that I do not share, that the majority of Hawaii's citizens do not share, and that will not happen.

In 1959, Hawaii was admitted to become a part of the United States because the voters in the territory of Hawaii overwhelmingly voted to do so. This does not, however, erase the wrongs that were committed against this unique group of indigenous aboriginal native people. This bill does not affect Hawaii's statehood or the rights of it citizens under such statehood. This measure does, however, provide an opportunity to reorganize a Native Hawaiian government, similar to that of Alaska Native and American Indians, who are also American citizens, and it provides an opportunity to finally resolve longstanding issues that exist in Hawaii as a result of the illegal overthrow.

The United States, in enacting Public Law 103–150, the Apology Resolution, has already recognized the fact that Native Hawaiians have never given up their inherent sovereignty. Despite the fact that Hawaii was admitted as the 50th State of the Union, Native Hawaiians neither by the government or through a plebiscite or referendum gave up their rights to inherent sovereignty. The June 27, 1959, statehood plebiscite in Hawaii only asked ''Shall Hawaii immediately be admitted to the Union as a State?'' Although the statehood plebiscite did not provide other options for independence or free association, it did not dissolve an inherent right to sovereignty by the indigenous people of Hawaii, Native Hawaiians.

Native Hawaiians are Americans and will continue to be American citizens upon enactment of this measure. Like other Native Americans, Native Hawaiians have honorably and overwhelmingly served in the United States military. Like their Native American brethren, they have served in numerous wars, including, World War II, Vietnam, Afghanistan, and Iraq and remain truly essential to protecting our country. Native Hawaiians will continue to do so after enactment of this measure. Native Hawaiians are truly proud to be Americans and should be.

Yesterday, some implied that this measure would abridge the right to vote and there was an attempt to somehow link the Supreme Court's decision in Rice v. Cayetano to this matter. This holding of this case has no bearing on the measure before us and this bill does not reverse the Court's holding. In order to fully understand what this decision did and did not say, one needs to know the facts:

The Office of Hawaiian Affairs is established pursuant to the Hawaii State Constitution as a State agency to administer programs for the benefit of Native Hawaiians. Prior to the Rice decision, the State limited voting for the trustees of the Office of Hawaiian Affairs, to Native Hawaiians. Mr. Rice, a non-Native Hawaiian citizen of the State of Hawaii, sued the Office of Hawaiian Affairs, a State agency, because he was not eligible to vote in the elections for the Board of Trustees that administers programs for the benefit of Native Hawaiians. Because the Office of Hawaiian Affairs is an arm of the State, the Supreme Court held that the State of Hawaii's denial of the right to vote in elections for the Board of Trustees of the Office of Hawaiian Affairs violated the Fifteenth Amendment guarantee of the right to vote.

That is what the Rice v. Cayetano decision held. Nothing more, nothing less.

But it appears that many of my colleagues have not read Rice. So I will take the liberty to cite from the decision so that my colleagues can fully understand that this case has no bearing on the matter before us today. Because with respect to whether or not Congress may treat Native Hawaiians as it does Indian tribes, the Court left open the possibility that Congress could treat Native Hawaiians as such. At 528 U.S. 518, the Court accurately noted that it had not yet considered whether ''Congress . . . has determined that native Hawaiians have a status like that of organized Indian tribes. . . .'' but the Court continued by specifically stating on page 519, ''We can stay far off that difficult terrain.'' The Court found it unnecessary to address whether Congress has treated Native Hawaiians as an Indian tribe because it found that the Office of Hawaiian Affairs is a State agency.

Although the holding of Rice is not relevant to the matter before us, the author of the State's brief is interesting, for the author is none other than recently confirmed Chief Justice John Roberts. Now Chief Justice Roberts clearly laid out the arguments as to how and why Native Hawaiians are a separate and distinct aboriginal, indigenous people who fall within Congress's plenary authority over Indian tribes. For instance, Chief Justice Roberts stated:

> Congress's broad authority over Indian affairs reaches the shores of Hawaii, too.
>
> The Constitution gives Congress—not the courts—authority to acknowledge and extinguish claims based on aboriginal status.
>
> Congress has established with Hawaiians the same type of 'unique legal relationship' that exists with respect to the Indian tribes who enjoy the 'same rights and privileges' accorded Hawaiians. . . .

I urge all of my colleagues to read the excellent brief drafted by now Chief Justice Roberts.

Congress has repeatedly enacted laws that limit the right to vote in Native governmental elections to the members of that native government and it is consistent with the Constitution. In the 1930's, Congress enacted the Indian Reorganization Act and limited voting to tribal members. In the 1970's, Congress enacted the Alaska Native Claims Settlement Act and limited voting to Native shareholders and their descendants. Since 1978, Congress has enacted over 20 laws that authorized the reorganization or recognition of Indian tribes and many of those laws expressly limit voting to the members of those tribes. To listen to the opponents of this measure, the bill will create a racial preference for voting in a native government and that this has never been done before. But as I just pointed out, this bill is not forging new ground. This bill is consistent with Congress's past actions and the Supreme Court has never questioned these actions.

Another matter that my colleagues try to confuse others on is the difference between reorganizing or recognizing a native government and creating a native government. No one, not even the opponents of the measure, dispute that Native Hawaiians exercised sovereignty over the lands that now

comprise Hawaii before European contact. No one disputes that there was a Native Hawaiian Kingdom. Consequently, there was a Native Hawaiian government that the United States recognized as a sovereign. Indeed, the United States even engaged in government-to-government relations with the Kingdom of Hawaii. It is this government which will be reorganized as a domestic, dependent nation within our constitutional framework, in a manner consistent with the status of other Native Americans.

To hear the comments made yesterday, one would think that there was never a Native Hawaiian government. One of my colleagues recently attended a forum on this measure and mentioned his concern over the lack of civic education in America and the corresponding lack of knowledge about America's history. I agree with him. I urge all my colleagues to learn more about the history of Hawaii, the history of Native Hawaiians, the history of the United States, the laws enacted by Congress for the benefit of the aboriginal, indigenous people of the United States, and the laws handed down by the Supreme Court.

I am confident that once my colleagues become more informed about these matters, all will realize that enacting legislation authorizing the reorganization of a native government is within Congress authority. The Supreme Court reaffirmed this authority as recently as 2 years ago in United States v. Lara. In fact, the Court acknowledged that ''Congress has restored previously extinguished tribal status—by re-recognizing a Tribe whose tribal existence it previously had terminated.''

Once everyone obtains more education about the history and laws influencing this measure, they will realize that various history impacts the history of the United States, you will realize the difference between authorizing the reorganization of a native government and creating one out of thin air.

Claims that this bill will establish a precedent for the recognition of tribal status for Amish or Hassidic Jews or other groups are ridiculous. It is just another attempt to scare the citizens of America. Congress has the authority to recognize government-to-government relations with the aboriginal, indigenous people because of their preexisting sovereignty over the lands because of European contact. None of these other groups are preexisting sovereigns who exercised such authority.

Nor will this result in a government for the Hispanics who lived in Texas before it became a republic in 1836, or for descendants of the French citizens before the Louisiana Purchase. Again, these citizens are not aboriginal, indigenous people who exercised sovereignty before Western contact. While Congress has used its plenary authority to recognize the aboriginal, indigenous people who reside in these former territories, Congress has never attempted to recognize the non-aboriginal, nonindigenous people as a government nor will it. We are not creating a precedent here.

Finally, I want to address the letter from the Department of Justice that was sent to Majority Leader FRIST last night. Last year, the Justice Department sent a longer letter outlining substantive policy concerns. Senator AKAKA and I, along with Governor Lingle, engaged in extensive negotiations with administration officials to address these substantive policy concerns. The result of these negotiations are contained in the substitute amendment that Senator AKAKA will he offering. There was no attempt to address the ideological concerns laid out in that letter. Therefore, Senator AKAKA and I have always known that all of the Department of Justice's concerns will not be addressed in the substitute amendment.

Before anyone relies too much on the Justice Department's letter, let me point out that the letter cites to the United States Commission on Civil Rights. I urge everyone to read the Government Accountability Office report released last week that noted the Commission's recent activities are not objective nor are there procedures in place to guarantee that they are.

While the letter correctly notes that the Supreme Court believes there is considerable dispute, it fails to acknowledge that the Supreme Court could have addressed the issue in Rice v. Cayetano but instead chose to put the issue aside for another day. The letter also does not mention the extensive Supreme Court case law that recognizes that it is Congress who has the authority to recognize a government-to-government relationship with a native government, not the Courts.

I urge my colleagues to vote ''yes'' on cloture so that this matter can be fully debated and everyone can be informed of the law supporting this measure. Do not fall victim to attempts to confuse this issue before us. Do not let your arm be twisted with threats that you should ignore your constituents and vote for the party line that is based on misinformation, not the law. All we are asking is that you allow an up or down vote on this measure.

Recently, the President of the United States George W. Bush submitted the name of John Roberts to be Chief Justice of the United States. Chief Justice Roberts was confirmed by this body because of his intellectual background and primarily because of his conservative views.

Recently, Chief Justice Roberts laid out arguments as to how and why Native Hawaiians are a separate and distinct aboriginal indigenous people who fall within Congress's plenary authority over Indian tribes. Among the many things that the Chief Justice said in his brief is the following:

> Congress' broad authority over Indian affairs that reaches the shores of Hawaii too.

He went further to say:

> The Constitution gives Congress—not the courts—authority to acknowledge and extinguish claims based on aboriginal status.

Chief Justice Roberts further stated:

> Congress has established with Hawaiians the same type of ''unique legal relationships'' that exist with respect to the Indian tribes who enjoy the ''same rights and privileges'' accorded Hawaiians . . .

I urge all of my colleagues to read this excellent brief by now Chief Justice Roberts.

Mr. President, many things have been said about what this bill will do and will not do. Some were rather outrageous, I must say. For example, it was argued that this bill will establish a precedent for the recognition of tribal status for Amish and Hasidic Jews or other groups.

I think it is just another attempt to scare our fellow Americans.

Congress has the authority to recognize government-to- government relations with aboriginal indigenous people because of their preexisting sovereignty over lands before European contact. None of the groups that have been named, such as the Amish or the Hasidic Jews, are preexisting sovereigns who exercised such authority.

While Congress has used plenary authority to recognize aboriginal indigenous people who reside in these former territories, Congress has never attempted to recognize the nonaboriginal nonindigenous people as a government, and it will not. We are not creating any precedent here.

Finally, the letter from the Department of Justice was mentioned. It was sent to our majority leader last evening.

Last year, the Justice Department sent a longer letter outlining substantive policy concerns. As a result of that letter, Senator AKAKA and I, together with Governor Lingle, the Republican Governor of Hawaii, engaged in extensive negotiations and discussions for nearly 2 months with officials of the White House, the Justice Department, and OMB to address these policy concerns.

The result of these negotiations was contained in a substitute amendment identified as S. 364, which was introduced by Senator AKAKA. He made a formal request that this bill be considered original text for consideration in this debate. Regretfully, that offer was rejected.

This letter from the Attorney General does not refer to S. 364, which they are well aware of because they helped us draft it. They refer to the old bill, S. 147, which we intend to substitute with S. 364.

Yes, we are aware of the shortcomings of S. 147, and we met for nearly 2 months to clarify that.

I hope my colleagues will vote yes on this cloture motion so this matter can be more fully debated and everyone can

be fully informed of the laws supporting the measure.

All we are asking for is an up-or-down vote on this measure. We just want an opportunity to debate this measure.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee has 2 minutes remaining.

Mr. ALEXANDER. Mr. President, there is a fundamental shortcoming to this bill that can't be corrected by small amendments. There is no question that this legislation would—and I believe for the first time in our history—create a new, separate, independent race-based government within the borders of the United States of America. The only argument that could possibly justify such an offense to our constitutional tradition and our original motto, which says that when we became Americans we are proud of where we came from but we are prouder of being Americans, is that Native Hawaiians are just another Indian tribe. But the government of Hawaii itself, in a brief in the Supreme Court in 1998, said: ''The tribal concept simply has no place in the context of Hawaiian history.''

The Department of Justice, in a letter yesterday to the majority leader, with a copy to the minority leader, said: ''Tribal recognition is inappropriate for native Hawaiians and would still raise difficult constitutional issues.''

I have outlined in my remarks how Native Hawaiians do not constitute just another tribe. There may be wrongs to address, but this is the wrong way to right a wrong.

I urge my colleagues to vote no.

CLOTURE MOTION

The PRESIDING OFFICER. All time has expired.

Under the previous order, the clerk will report the motion to invoke cloture on the motion to proceed to Calendar No. 101, S. 147, Native Hawaiians Governing Entity.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar No. 101, S. 147, native Hawaiians Governing entity.

Daniel K. Akaka, Daniel K. Inouye, Charles Schumer, Jack Reed, Patrick Leahy, Joe Biden, Barbara Mikulski, Evan Bayh, Barbara Boxer, Frank Lautenberg, Harry Reid, Jay Rockefeller, Richard Durbin, Jeff Bingaman, Edward Kennedy, Herb Kohl, James M. Jeffords, Mark Dayton, Jon Kyl, Norm Coleman.

The PRESIDING OFFICER. By unanimous consent the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to Calendar No. 101, S. 147, Native Hawaiians Governing Entity bill, be brought to a close? The yeas and nays are mandatory under rule XXII. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from South Carolina (Mr. GRAHAM).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from New York (Mr. SCHUMER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—56 yeas, 41 nays, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—56

Akaka	Feingold	Menendez
Baucus	Feinstein	Mikulski
Bayh	Grassley	Murkowski
Biden	Hagel	Murray
Bingaman	Harkin	Nelson (FL)
Boxer	Inouye	Nelson (NE)
Byrd	Jeffords	Obama
Cantwell	Johnson	Pryor
Carper	Kennedy	Reed
Clinton	Kerry	Reid
Cochran	Kohl	Salazar
Coleman	Kyl	Sarbanes
Collins	Landrieu	Smith
Conrad	Lautenberg	Snowe
Dayton	Leahy	Specter
Dodd	Levin	Stabenow
Domenici	Lieberman	Stevens
Dorgan	Lincoln	Wyden
Durbin	McCain	

NAYS—41

Alexander	Crapo	Martinez
Allard	DeMint	McConnell
Allen	DeWine	Roberts
Bennett	Dole	Santorum
Bond	Ensign	Sessions
Brownback	Enzi	Shelby
Bunning	Frist	Sununu
Burns	Gregg	Talent
Burr	Hatch	Thomas
Chafee	Hutchison	Thune
Chambliss	Inhofe	Vitter
Coburn	Isakson	Voinovich
Cornyn	Lott	Warner
Craig	Lugar	

NOT VOTING—3

Graham	Rockefeller	Schumer

Mr. PRESIDING OFFICER (Mr. VITTER). On this vote the yeas are 56, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. MCCONNELL. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

NOMINATION OF NOEL LAWRENCE HILLMAN TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY

NOMINATION OF PETER G. SHERIDAN TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY

NOMINATION OF THOMAS L. LUDINGTON TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN

NOMINATION OF SEAN F. COX TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider en bloc the following nominations, which the clerk will report.

The legislative clerk read the nominations of Noel Lawrence Hillman, of New Jersey, to be United States District Judge for the District of New Jersey; Peter G. Sheridan, of New Jersey, to be United States District Judge for the District of New Jersey; Thomas L. Ludington, of Michigan, to be United States District Judge for the Eastern District of Michigan; Sean F. Cox, of Michigan, to be United States District Judge for the Eastern District of Michigan.

The PRESIDING OFFICER. Debate on these nominations shall be allocated as follows: Mr. LAUTENBERG, 10 minutes; Mr. MENENDEZ, 10 minutes; Ms. STABENOW, 10 minutes; Mr. SPECTER, 10 minutes; and Mr. LEAHY, 10 minutes.

Who yields time?

The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I ask unanimous consent to use 1 minute of the time allocated to Senator LEAHY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I am very pleased that the Senate will be voting today on two Michigan jurists, Tom Ludington and Sean Cox, whom the President has nominated to the Federal bench for the Eastern District of Michigan. Both of these jurists received unanimously ''well qualified'' ratings from the American Bar Association to serve as Federal district judges. We are fortunate that we have jurists such as Judge Ludington and Judge Cox devoted to public service. I believe both will bring character and judicial temperament and integrity to the Eastern District of Michigan. I congratulate these jurists and their families on their nominations. I urge the Senate to confirm them.

Thomas Ludington is currently chief judge on the Circuit Court for Midland

County in Midland, MI. He received his J.D. from the University of San Diego School of Law in 1979 and his B.A. from Albion College in 1976, where he graduated cum laude.

After graduating from law school, Judge Ludington worked as an associate and then as a shareholder-partner at a private law firm. At that firm, Judge Ludington's practice covered a range of commercial issues, including banking, securities, bankruptcy, the uniform commercial code, and employment law. He served as president of the firm for 6 years.

In 1995, Judge Ludington was elected to a 6-year term on the 42nd Circuit Court of Michigan. In 1999, he was appointed to the position of chief judge, in which he as served with distinction.

Judge Ludington is a member of several State and local bar associations and belongs to numerous professional and community organizations. For example, since assuming the bench, he has helped organize the Midland Alliance for Justice, a foundation for the local bar association that provides legal representation to indigent parties.

The American Bar Association rated Judge Ludington unanimously ''well qualified'' to serve as a Federal judge.

Sean Cox earned his B.A. from the University of Michigan and his J.D. from the Detroit College of Law in May 1983. In his 20-year legal career, Judge Cox has had experience in both private practice and on the bench. Judge Cox began practicing law in April 1984 as an associate attorney with a private law firm and worked for 12 years in the areas of medical malpractice, products liability, and complex litigation.

Cox left private practice in March 1996 to serve as judge of the Circuit Court for the Third Judicial Circuit in Wayne County, MI. Judge Cox has also served in various professional organizations and has frequently provided free legal services through a legal aid clinic his law firm established at St. Anne's Catholic Church in Detroit.

The American Bar Association has also rated Judge Cox Unanimously ''well qualified'' to serve as a Federal judge.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I endorse the nominations of the people under consideration, Noel Hillman and Peter Sheridan, to be Federal judges on the U.S. District Court of New Jersey. Both of these candidates are outstanding attorneys and are well qualified to assume the position on the bench.

The Senate has recently confirmed two nominees for this court—Judge Susan Wigenton and Renee Bumb. Today I hope this body will resoundingly approve these two additional nominees for the District of New Jersey.

Noel Hillman recently served as the Chief of the Public Integrity Section at the Department of Justice, leading a team of 30 attorneys who investigate and prosecute public corruption cases nationwide.

Mr. Hillman has a reputation for taking on crimes that undermine public confidence in our political system—no matter how political or controversial. He steps up to the task and does it well.

Before he went to the Justice Department, Mr. Hillman served as Deputy Chief of the Criminal Division of the U.S. Attorney's Office in New Jersey and as Assistant U.S. Attorney for the Fraud and Public Protection Division.

His work has not escaped recognition. He received the Attorney General's Award for Fraud Prevention in 2004, the Executive Office of U.S. Attorneys Director's Award in 1996 and 1999, and the Department of Justice Superior Performance Award in 1997.

I am also proud to note that Mr. Hillman was educated in New Jersey, graduating from Monmouth College and Seton Hall Law School.

Mr. President, Peter Sheridan has also been nominated for the District Court of New Jersey, and his resume shows his vast legal experience and knowledge.

Like Mr. Hillman, Peter Sheridan is the product of a New Jersey education. Mr. Sheridan also graduated from Seton Hall Law School, as well as receiving his undergraduate degree from St. Peter's College.

Both of these people know New Jersey well and are part of the culture and character of New Jersey. We are delighted that they are going to accede to the bench if approved here, as we expect.

Mr. Sheridan has spent the last decade as a named partner at Graham, Curtin & Sheridan in Trenton, NJ. Prior to that he worked in private practice at other law firms, and has a strong record of public service.

He served as director of the Authorities Unit for the State of New Jersey, vice president and general counsel of the Atlantic City Casino Association, and an attorney with the Port Authority of New York and New Jersey.

Mr. President, I note that if the Senate approves these two nominees, then this year alone we will have confirmed New Jersey nominees for the Supreme Court, the Third Circuit Court of Appeals, and the District Court of New Jersey.

I hope the good working relationship that allowed this accomplishment will continue for the remaining vacancy on the Third Circuit Court of Appeals and for future nominations.

I had the honor of introducing Mr. Hillman and Mr. Sheridan to the Judiciary Committee, and today I am proud to endorse their confirmation. I urge my colleagues to support them as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey, Mr. MENENDEZ, is recognized.

Mr. MENENDEZ. Mr. President, I rise today in support of the nominations of Peter G. Sheridan and Noel Lawrence Hillman to serve as United States District Judges for the District of New Jersey.

The confirmation of a judge to a lifetime appointment is a vital responsibility given to this body by the Constitution, and one that I take very seriously.

That is why I am pleased that our final two nominees from the package of four from New Jersey have come before the Senate today. Each of the four was favorably reported by the Judiciary Committee back in April. Their confirmation would be a testament to the cooperation and collaborative effort between the Senators from New Jersey, the Senate Judiciary Committee, and the White House.

When we work together to select qualified, independent, and diverse judges, we can fill these positions expeditiously and work in a bipartisan manner that benefits not only the State of New Jersey, but also our Nation.

Both nominees before us today are graduates of Seton Hall School of Law in Newark, NJ, and both possess undergraduate degrees from our shared State.

Mr. Sheridan attended my own alma mater, St. Peter's College, and was honored as Alumnus of the Year in 2003, an honor that I'm still hoping to receive one day. He has been in private practice with Graham, Curtin, and Sheridan for the past 11 years and is currently a shareholder and director of the firm. Mr. Sheridan is an experienced trial lawyer, appearing on numerous occasions before the very court to which he is now nominated. I am confident that his years of experience before State and Federal courts will serve him well on the Federal bench.

The final nominee in our package is Noel Lawrence Hillman. Mr. Hillman is a graduate, cum laude, from Monmouth University in Long Branch, NJ. In addition to his law degree, he also has a masters in law from New York University. Mr. Hillman served as an Assistant U. S. Attorney for nearly a decade before becoming Deputy Chief of the Criminal Division.

Most recently, he worked as the Chief of the Public Integrity Section at the U.S. Department of Justice, where he spearheaded the Government's case against Jack Abramoff. Mr. Hillman has twice received the Director's Award, the highest award given to an assistant U.S. attorney, and in 2004 received the Attorney General's Award for Fraud Prevention. The American Bar Association has rated Mr. Hillman as ''well qualified'' for this position and I must concur with that assessment.

There truly is no higher calling than the calling of public service. That is why I am so pleased to see people of this quality who are willing to serve our Nation in the administration of justice.

I must thank the chairman and ranking member of the Judiciary Committee for moving these nominees through the process so fairly and quickly. I hope the U.S. District Court for the District of New Jersey can serve as an example of bipartisanship and cooperation in getting mutually agreed upon judges confirmed without dispute. I look forward to each of our four nominees serving on the Federal bench and know that they will make our State proud.

Mr. President, I urge my colleagues to support the nominations of Peter Sheridan and Noel Lawrence Hillman to serve on the U.S. District Court for the District of New Jersey.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak as in morning business and have this time counted toward the requirements for the executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE INTERNET

Mr. WYDEN. Mr. President, tomorrow in the other body, the House of Representatives, they will begin debating one of the most important communications issues facing our country—the future of the Internet.

Since the other body will begin that discussion shortly and we have had debate beginning in the Senate Commerce Committee, chaired by Senator STEVENS who worked so cooperatively with Senator INOUYE, I wish to take a few minutes and talk about why I think this issue is so important and what the stakes are for our country.

We all understand what has been so exciting about the Internet. The Internet has been a tremendously democratizing force, ensuring that in every nook and cranny of America, opportunities are there for Americans to learn, to tap the free enterprise system and to secure health care to name a few. This is an extraordinary array of opportunities.

Today on the Internet, after you have paid your access charge to use the Net, you go where you want, when you want, how you want, free of discrimination because you have paid that one original access charge.

Unfortunately, there are huge communications lobbies, consisting particularly of some of the major phone companies and some of the major cable companies, that want to change the way the Internet works. They would like to make consumers and businesses in our country pay tomorrow for what is free today.

Today, when small businesses or consumers pay their Internet access charge, they can go wherever they want, whenever they want, however they want, without racking up extra charges and without facing discrimination. Unfortunately, these big communications lobbies would like to change that. For example, we see reports in distinguished business publications, such as the Wall Street Journal. They talk there about communications plans that are ''pay to play.'' If you were going to go to a variety of Web sites, under the approach they are proposing in the Wall Street Journal, the Web sites or the consumer would have to pay every time they went to one of these Web sites, in order to get good quality service.

I don't think that is right. I think that is discrimination. I think it is discriminating against consumers, I think it is discriminating against small businesses. I think it will do extraordinary damage to the inherent beauty of the Internet, which has been all about a fair shake for every American, for every consumer.

In an effort to spin this discrimination by the big cable companies and big phone companies against the consumers, the big lobbies are engaged in a huge advertising blitz. By my back-of-the-envelope calculations, these big lobbies are spending hundreds of millions of dollars on advertisements to convince the American people that discrimination and these extra charges they would face on the Internet are actually good for consumers and businesses.

If it is so good for the consumer, why are these lobbies spending millions of dollars on these advertisements to tell the American people about it? If discrimination was so good, wouldn't consumers have been interested in paying higher prices a long time ago?

It is hard to open the pages of a newspaper or turn on the television without seeing an advertisement urging people to stop Congress from ''regulating the Internet.'' One trade association has even placed ads in the airports around Washington, DC, hoping Senators and Representatives traveling back to their States will see them. I can't imagine the executives of these large corporations would commit such large sums to advertising if they didn't think these kinds of advertisements would pay off handsomely in profits.

Groups, such as Hands Off the Internet, a front group for some of the big communications lobbies, have offered some eye-popping ads. Look at this recent ad, for example, in which they display a copy of my legislation, the Internet Nondiscrimination Act. The only thing accurate about this ad is the top page of my bill. It has my name on it. It clearly says the ''Internet Nondiscrimination Act,'' but just about everything else is dead wrong. What they have done is falsely add what looks like hundreds, if not thousands, of pages to my bill. This is how they demonstrate what my legislation is all about. Here is the reality, Mr. President. Here is what they say I propose. However, this is just not accurate. Here is what my legislation looks like, what the big communications lobbies ought to describe as the real world; a piece of legislation that is 15 pages long.

The bill I have introduced, this 15-page bill, doesn't look like anything along the lines of what the big communications lobbies are spending such vast sums on saying it looks like.

There is an even more disturbing misrepresentation in this ad. It says, stamped up at the top, ''regulation.'' My legislation isn't about regulation. All I want is to leave the Internet alone. I don't want it to be subject to discriminatory changes, changes that would hit the American consumer in the pocket.

I think any fairminded American who looks at my record will see that I have never sought to regulate the Internet. On the contrary, when I came to the Senate, I was a leader in the effort to keep the Internet free of discriminatory taxes. I fought to keep the Internet free of regulation. Now I am trying to keep control of the Internet in the hands of the American people and not force Americans in this country to pay tomorrow for what is free today.

If you looked at these advertisements, Mr. President, you would think that neutrality is some newfangled idea that threatens the Internet. Net neutrality is what we have today, and the Internet has thrived precisely because it is neutral. It has thrived because consumers, and not some huge phone company or some huge cable company, get to choose what they want to see and how quickly they get to see it.

I want to make it clear that those of us who are fighting to keep the Net neutral, which means that when you go to your browser, you go where you want, when you want, how you want, after you pay that initial access charge, are not interested in regulating anything. The people who want to make the changes, the big telecom and cable lobbies, are the ones who want to meddle with the Internet. They want to put their hands on the Internet so they can heap all these extra charges on the American people.

Right now there is a small business, a craft maker, in Tigard, OR, who has a Web site where she sells her products all over the world. If these big lobbies have their way, she will have to pay a new hefty fee so customers can continue to have the same access to her Web site. That is not right. The consumer, after they pay that initial access charge, ought to be able to go where they want, when they want, how they want to get there. To make them pay tomorrow for what they get for free today is wrong.

Colleagues are waiting to speak. I had anticipated spending a bit more time on this, but I think this ad says it all. We ought to keep the Internet free

of discrimination. We ought to protect consumers against multiple and discriminatory access charges. The next time somebody sees one of these ads, ads that seem to have millions of dollars of lobby money backing them up, they ought to know that this which purports to represent my legislation is false. What is in this ad suggests scores and scores of pages. The reality is my bill to keep the Internet free of discrimination and protect the consumer is 15 pages long.

This argument at the top of the ad that there will be a host of Net-neutrality regulations is similarly false. It is not about regulating anything on the Internet. I want to keep the Internet the way it is—an open, vibrant system, accessible to all.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). Who yields time?

The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise today to speak to the nominations before us. I appreciate my distinguished colleague and friend from Oregon relinquishing the floor. He is very passionate and such a wonderful leader on so many topics. I appreciate his good work.

I rise today to support the nominations of Judge Sean Cox and Judge Thomas Ludington to the U.S. District Court for the Eastern District of Michigan. Both nominees will bring distinguished legal careers and judicial experience to the Federal bench.

Judge Sean Cox has served as a Circuit Court Judge for the Third Circuit of Michigan since 1996. He is a graduate of the Detroit College of Law at the University of Michigan and has over 12 years of private practice experience.

Judge Thomas Ludington has served on the 42nd Circuit Court for Midland County since 1995. He has served as chief judge of this court for the past 6 years.

Judge Ludington is a graduate of the University of San Diego School of Law and Albion College. After graduating from law school, Judge Ludington worked at Currie and Kendall law firm for 14 years. He also served as president of the firm before he left to join the Michigan circuit bench.

I thank Senator SPECTER and Senator LEAHY for working with me and Senator LEVIN to bring these two truly qualified nominees to the floor of the Senate. I look forward to continuing to work with them on issues related to the Michigan District Court and the Sixth Circuit Court of Appeals. I urge my colleagues to join with us in strongly supporting the nominations and confirming Judge Cox and Judge Ludington.

Mr. President, I ask unanimous consent that the votes on the confirmation of judges begin at 2 p.m. today; provided further, that all the votes in the sequence after the first be limited to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The hour of 2 p.m. having arrived, the question is, Will the Senate advise and consent to the nomination of Noel Lawrence Hillman, of New Jersey, to be United States District Judge for the District of New Jersey?

Ms. STABENOW. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on all four of the nominees.

The PRESIDING OFFICER. Is there objection?

Ms. STABENOW. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Mr. President, I wish to speak briefly—for less than 2 minutes—on the four nominees. They have been cleared by the Judiciary Committee, and I ask unanimous consent that their résumés be printed in the RECORD. They are all well qualified, and I urge my colleagues to confirm them.

NOEL L. HILLMAN

NOMINEE, U.S. DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Birth: 1956; Red Bank, New Jersey.

Legal Residence: Virginia.

Education: 1978–1981; Monmouth College, B.A. degree. 1981–1985; Seton Hall University School of Law, J.D. degree. 1985–1998; New York University School of Law, L.L.M. degree.

Bar Admittance: 1986; New Jersey. 1990; New York.

Experience: 1992–present; U.S. Department of Justice. 2003–2006; Public Integrity Section, Senior Counsel to the Assistant Attorney General; Chief. 2002–2003; Acting Chief. 2001–2002; Principal Deputy Chief. 2000–2001; Criminal Division, United States Attorney's Office, District of New Jersey Deputy Chief. 1999–2000; Campaign Finance Task Force Trial Attorney. 1992–2001; United States Attorney's Office, District of New Jersey, Assistant U.S. Attorney. 1988–1992; Lord Day & Lord Associate. 1986–1988; U.S. District Judge Maryanne Trump Barry, Law Clerk. 1986; Hillman & Sullivan, Associate.

PETER G. SHERIDAN

Birth: April 21, 1950; Cambridge, Massachusetts.

Legal Residence: New Jersey.

Education: 1968–1972; St. Peter's College B.S. degree. 1974–1977; Seton Hall University School of Law, J.D. degree.

Bar Admittance: 1977; New Jersey. 1980; New York.

Experience: 1977–1978; Law Clerk to the Honorable James J. Petrella, Superior Court of New Jersey, County of Bergen. 1978–1981; Port Authority of New York/New Jersey, Office of New Jersey, Solicitor Attorney. 1981–1984; McCarthy and Schatzman, Associate. 1984–1987; Atlantic City Casino Association, Vice President and General Counsel. 1987–1990; Office of Governor Thomas Kean, Director of Authorities Unit. 1990–1992; Cohen, Shapiro, Polisher, Shiekman, & Cohen, Of Counsel. 1992–1993; Cullen and Dykman. 1994–1995; Partner. 1993–1994; N.J. Republican State Committee, Executive Director. 1995–present; Graham, Curtin & Sheridan, Shareholder/Director.

THOMAS L. LUDINGTON

Birth: December 28, 1953; Midland, Michigan.

Legal Residence: Michigan.

Education: 1972–1976; Albion College, B.A. degree, cum laude. 1977–1979; University of San Diego School of Law, J.D. degree.

Bar Admittance: 1980; Michigan.

Experience: 1980–1994; Currie and Kendall, P.C., Associate/Partner. 1994–Present; 42nd Circuit Court, State of Michigan, Judge (Chief Judge since 1999).

SEAN F. COX

DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN

Birth: September 24, 1957; Detroit, Michigan.

Legal Residence: Michigan.

Education: 1975–1979; University of Michigan, B.G.S. degree, 1980–1983; Detroit College of Law, J.D. degree.

Bar Admittance: 1983; Michigan.

Experience: 1983; James Flynn, P.C., Law clerk. 1983–1984; Self-employed. 1984–1989; Kitch, Saurbier, Drutchas, Wagner & Kenney, Associate. 1989–1990; Bloom & Kavanaugh, Associate. 1990–1996; Cummings, McClorey, Davis & Acho, P.C., Partner. 1996–present; Third Judicial Circuit Court, State of Michigan, Circuit Judge.

Mr. SPECTER. We are operating under some time pressures because there are Senators who have other commitments. We wanted to call the vote at 2 o'clock. It is 2:01 now. I believe the unanimous consent request has been made that the votes start immediately and that the subsequent votes be 10 minutes each.

The PRESIDING OFFICER. That is correct.

Mr. SPECTER. Have the yeas and nays been ordered on all of the nominations?

The PRESIDING OFFICER. There is a pending unanimous consent request for the yeas and nays on all four nominees. Is there objection to that request? Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Noel Lawrence Hillman, of New Jersey, to be United States District Judge for the District of New Jersey? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from New York (Mr. SCHUMER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 166 Ex.]

YEAS—98

Akaka	Bunning	Collins
Alexander	Burns	Conrad
Allard	Burr	Cornyn
Allen	Byrd	Craig
Baucus	Cantwell	Crapo
Bayh	Carper	Dayton
Bennett	Chafee	DeMint
Biden	Chambliss	DeWine
Bingaman	Clinton	Dodd
Bond	Coburn	Dole
Boxer	Cochran	Domenici
Brownback	Coleman	Dorgan

Durbin	Kyl	Reid
Ensign	Landrieu	Roberts
Enzi	Lautenberg	Salazar
Feingold	Leahy	Santorum
Feinstein	Levin	Sarbanes
Frist	Lieberman	Sessions
Graham	Lincoln	Shelby
Grassley	Lott	Smith
Gregg	Lugar	Snowe
Hagel	Martinez	Specter
Harkin	McCain	Stabenow
Hatch	McConnell	Stevens
Hutchison	Menendez	Sununu
Inhofe	Mikulski	Talent
Inouye	Murkowski	Thomas
Isakson	Murray	Thune
Jeffords	Nelson (FL)	Vitter
Johnson	Nelson (NE)	Voinovich
Kennedy	Obama	Warner
Kerry	Pryor	Wyden
Kohl	Reed	

NOT VOTING—2

Rockefeller	Schumer

The nomination was confirmed.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Peter G. Sheridan, of New Jersey, to be United States District Judge for the District of New Jersey? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from New York (Mr. SCHUMER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 167 Ex.]

YEAS—98

Akaka	Dole	Martinez
Alexander	Domenici	McCain
Allard	Dorgan	McConnell
Allen	Durbin	Menendez
Baucus	Ensign	Mikulski
Bayh	Enzi	Murkowski
Bennett	Feingold	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Graham	Obama
Boxer	Grassley	Pryor
Brownback	Gregg	Reed
Bunning	Hagel	Reid
Burns	Harkin	Roberts
Burr	Hatch	Salazar
Byrd	Hutchison	Santorum
Cantwell	Inhofe	Sarbanes
Carper	Inouye	Sessions
Chafee	Isakson	Shelby
Chambliss	Jeffords	Smith
Clinton	Johnson	Snowe
Coburn	Kennedy	Specter
Cochran	Kerry	Stabenow
Coleman	Kohl	Stevens
Collins	Kyl	Sununu
Conrad	Landrieu	Talent
Cornyn	Lautenberg	Thomas
Craig	Leahy	Thune
Crapo	Levin	Vitter
Dayton	Lieberman	Voinovich
DeMint	Lincoln	Warner
DeWine	Lott	Wyden
Dodd	Lugar	

NOT VOTING—2

Rockefeller	Schumer

The nomination was confirmed.

Mr. LEAHY. Mr. President, I ask unanimous consent the previously ordered rollcalls on the next two nominees be vitiated, they be considered and passed en bloc.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

The question is, Will the Senate advise and consent en bloc to the nominations of Thomas L. Ludington, of Michigan, to be United States District Judge for the Eastern District of Michigan and Sean F. Cox, of Michigan, to be United States District Judge for the Eastern District of Michigan.

The nominations were confirmed en bloc.

Mr. LEAHY. Mr. President, today the Senate confirmed four lifetime appointments to U.S. district courts, Noel Hillman and Peter Sheridan, who have been nominated to seats on the U.S. District Court for the District of New Jersey, and Thomas Ludington and Sean Cox, who have been nominated to seats on the U.S. District Court for the Eastern District of Michigan. They are all nominees who have the support of Democratic home State Senators.

I am glad the Republican leadership has taken notice of the fact that, as I discussed earlier this week, these nominees have been ready for action for some time, since being reported unanimously last month. I also look forward to working with the Republican leadership to schedule debate and consideration of Sandra Segal Ikuta, who has been nominated to a seat on the U.S. Court of Appeals for the Ninth Circuit, and Andrew Guilford to be a district judge for the Central District of California who also have the support of Democratic home State Senators and could also be easily confirmed. When they are considered, and I hope the Republican leadership will agree to do that next week and not delay, we will have confirmed 250 of President Bush's nominees to lifetime appointments on the Federal courts.

As I noted earlier this week, the nominees we are considering today could have been confirmed earlier if the Republican leadership had chosen to proceed with them instead of pressing forward first with the controversial nomination of Brett Kavanaugh and the divisive debate over a constitutional amendment that had no chance of passing. I do commend the Republican Senate leadership for wisely passing over the controversial nominations of William Gerry Myers III, Terrence W. Boyle, and Norman Randy Smith to turn to these nominations today. In the course of an hour or two this week, the Senate will confirm five lifetime appointments to the Federal courts. Debate on those flawed nominations will take much longer. The Republican leadership is right to have avoided such controversial nominations that were only reported on a party-line vote.

During the 17 months I was chairman of the Judiciary Committee and the Senate was under Democratic control, we confirmed 100 of President Bush's nominees. After today, in the last 17 months under Republican control, the Senate will have confirmed 43.

Regrettably, rather than fill judicial vacancies with qualified nominees, the Republican leadership seems all too often more focused on picking fights. Last month, they forced debate on the controversial nomination of a White House insider selected for a lifetime position on the DC Circuit as a reward for his loyalty to President Bush. I did not support confirmation of Brett Kavanaugh. That was the fight the Republican leader had promised the narrow special interest groups of the rightwing of his party.

The President and Senate Republican leadership continue to pick fights over judicial nominations rather than focus on filing vacancies. This is part of their partisan effort to agitate conservative voters, no doubt. They are willing to play politics with the Constitution and with the courts. They treat the Constitution as a billboard for campaign posters and political ads.

Judicial vacancies have now grown to nearly 50 from the lowest vacancy rate in decades. More than half these vacancies are without a nominee. The Congressional Research Service has recently released a study showing that this President has been the slowest in decades to make circuit court nominations and the Republican Senate among the slowest to act. If they would concentrate on the needs of the courts, our Federal justice system, and the needs of the American people, we would be much further along.

This week we passed a milestone, confirming the 17th judicial nominee this session. That was the total number of judges confirmed in the 1996 congressional session, when Republicans controlled the Senate and stalled the nominations of President Clinton. In the 1996 session, however, Republicans would not confirm a single appellate court judge. All 17 confirmations were district court nominees. That is the only session I can remember in which the Senate has simply refused to consider a single appellate court nomination. That was part of their pocket-filibuster strategy to stall and maintain vacancies so that a Republican President could pack the courts and tilt them decidedly to the right. In the important DC Circuit, the confirmation of Brett Kavanaugh was the culmination of the Republicans' decade-long attempt to pack the DC Circuit that began with the stalling of Merrick Garland's nomination in 1996 and continued with the blocking of President Clinton's other well-qualified nominees, Elena Kagan and Allen Snyder.

If the Republican leadership will work with us to schedule Sandra Segal Ikuta's nomination for consideration and a vote, we are likely to add another circuit court confirmation to that total. I only wish President Clinton's nominees had received the same treatment.

The road ahead is likely to be rocky. In the runup to the Kavanaugh nomination debate, we saw that the Senate Republican leadership is apparently

heeding the advice of The Wall Street Journal editorial page, which wrote, ''[a] filibuster fight would be exactly the sort of political battle Republicans need to energize conservative voters after their recent months of despond.'' Rich Lowery, editor of the conservative National Review, listed a fight over judges as one of the ways President Bush could revive his political fortunes, writing that he should, ''[p]ush for the confirmation of his circuit judges that are pending. Talk about them by name. The G.O.P. wins judiciary fights.''

Republican Senators are relishing picking fights over controversial judicial nominees. Senator THUNE has said, ''A good fight on judges does nothing but energize our base . . . . Right now our folks are feeling a little flat.'' Senator CORNYN has said, ''I think this is excellent timing. From a political standpoint, when we talk about judges, we win.'' On May 8, 2006, The New York Times reported: ''Republicans are itching for a good election-year fight. Now they are about to get one: a reprise of last year's Senate showdown over judges.'' The Washington Post reported on May 10: ''Republicans had revived debate on Kavanaugh and another Bush appellate nominee, Terrence Boyle, in hopes of changing the pre-election subject from Iraq, high gasoline prices and bribery scandals.''

We should not stand idly by as Republicans choose to use lifetime Federal judgeships for partisan political advantage. In a May 11, 2006, editorial The Tennessean wrote:

[T]he nation should look with complete dismay at the blatantly political angle on nominations being advocated by Senate Republicans now. . . . Republicans are girding for a fight on judicial nominees for no reason other than to be girding for a fight. They have admitted as much in public comments. . . . In other words, picking a public fight over judicial nominees is, in their minds, the right thing to do because it's the politically right thing to do. . . . Now, Republicans are advocating a brawl for openly political purposes. The appointment of judges deserves far more respect than to be an admitted election-year ploy. . . . It should be beneath the Senate to have such a serious matter subjected to nothing but a tool for political gain.

On May 3, 2006, The New York Times wrote in an editorial: ''The Republicans have long used judicial nominations as a way of placating the far right of their party, and it appears that with President Bush sinking in the polls, they now want to offer up some new appeals court judges to their conservative base.''

Consider the President's nomination of Judge Terrence Boyle to the Fourth Circuit. We have learned from recent news reports that, as a sitting U.S. district judge and while a circuit court nominee, Judge Boyle ruled on multiple cases involving corporations in which he held investments. In at least one instance, he is alleged to have bought General Electric stock while presiding over a lawsuit in which General Electric was accused of illegally denying disability benefits to a long-time employee. Two months later, he ruled in favor of GE and denied the employee's claim for long-term and pension disability benefits. Whether or not it turns out that Judge Boyle broke Federal law or canons of judicial ethics, these types of conflicts of interest have no place on the Federal bench. Certainly, they should not be rewarded with a promotion to the Fourth Circuit. Certainly, they should be investigated.

The President should heed the call of North Carolina Police Benevolent Association, the North Carolina Troopers' Association, the Police Benevolent Associations from South Carolina and Virginia, the National Association of Police Organizations, the Professional Fire Fighters and Paramedics of North Carolina, as well as the advice of Senator SALAZAR and former Senator John Edwards, and withdraw his ill-advised nomination of Judge Terrence Boyle. Law enforcement from North Carolina and law enforcement from across the country oppose the nomination. Civil rights groups oppose the nomination. Those knowledgeable and respectful of judicial ethics oppose this nomination. This nomination has been pending on the calendar in the Republican-controlled Senate since June of last year when it was forced out of the committee on a party-line vote. It should be withdrawn.

Also on the calendar is the nomination of William Myers to the Ninth Circuit. This is another administration insider and lobbyist whose record has made him extremely controversial. I opposed this nomination when it was considered by the Judiciary Committee in March 2005. He was a nominee who the so-called Gang of 14 expressly listed as someone for whom they made no commitment to vote for cloture, and with good reason. His antienvironmental record is reason enough to oppose his confirmation. His lack of independence is another. If anyone sought to proceed to this nomination, there would be a need to explore his connections with the lobbying scandals associated with the Interior Department and Jack Abramoff. This nomination should also be withdrawn.

A few months ago, the President withdrew the nomination of Judge James Payne to the Court of Appeals for the tenth Circuit after information became public about that nominee's rulings in a number of cases in which he appears, like Judge Boyle, to have had conflicts of interest. Those conflicts were pointed out not by the administration's screening process or by the ABA but by journalists.

Judge Payne joins a long list of nominations by this President that have been withdrawn. Among the more well known are Bernard Kerik to head the Department of Homeland Security and Harriet Miers to the Supreme Court. It was, as I recall, reporting in a national magazine that doomed the Kerik nomination. It was opposition within the President's own party that doomed the Miers nomination.

During the last few months, President Bush also withdrew the nominations of Judge Henry Saad to the Court of Appeals for the sixth Circuit and Judge Daniel P. Ryan to the Eastern District of Michigan after his ABA rating was downgraded.

It is not as if we have not been victimized before by the White House's poor vetting of important nominations. If the White House had its way, we would already have confirmed Claude Allen to the Fourth Circuit. He is the Bush administration insider who recently resigned his position as a top domestic policy adviser to the President. Ultimately we learned why he resigned when he was arrested for fraudulent conduct over an extended period of time. Had we Democrats not objected to the White House attempt to shift a circuit judgeship from Maryland to Virginia, someone now the subject of a criminal prosecution for the equivalent of stealing from retail stores would be a sitting judge on the Fourth Circuit confirmed with a Republican rubberstamp.

Yet another controversial pending nomination is that of Norman Randy Smith to the Ninth Circuit. This nomination is another occasion on which this President is seeking to steal a circuit court seat from one State and reassign it to another one, one with Republican Senators. That is wrong. I support Senators FEINSTEIN and BOXER in their opposition to this tactic. I have suggested a way to resolve two difficult situations if the President were to renominate Mr. Smith to fill the Idaho vacancy on the Ninth Circuit instead of a vacancy for a California seat. Regrettably, the White House has not followed up on my suggestion.

A complicit Republican-controlled Senate remains all too eager to act as a rubberstamp for the Bush-Cheney administration. The nomination of Mr. Kavanaugh was one of the few to be downgraded by the ABA upon further review. Until the Republican-controlled Senate proceeded to confirm this White House insider, I cannot recall anyone being confirmed after such a development—another first, and another problematic confirmation that ill serves the American people.

Another troubling nomination is that of William James Haynes to the Fourth Circuit, which has been pending in the Republican-controlled Senate without action for 3 years. Mr. Haynes is the general counsel at the Defense Department and was deeply involved developing the torture policies, detention and interrogation policies, military tribunals, and other controversial aspects of the manner in which this administration has proceeded unilaterally to make mistakes and exceed its legal authority. Concerns about the Haynes nomination may not be confined to Democratic Senators, according to recent press reports.

I trust that the Senate will not repeat the mistake it made before. It was

only after Jay Bybee was confirmed to a lifetime appointment to the Ninth Circuit that we learned of his involvement with the infamous Bybee memo seeking to justify torture and degrading treatment. I had asked him what he had worked on while head of the Department of Justice's Office of Legal Counsel, but he had refused to respond. This former Defense Department and Justice Department insider now sits on the Ninth Circuit for life.

Finally, there is the more recent nomination of Michael Wallace to a vacancy on the Fifth Circuit. Mr. Wallace received the first ABA rating of unanimously ''not qualified'' that I have seen for a circuit court nominee since President Reagan. Yet that is one of the controversial nominations we can expect the Republican Senate to target for action given their track record.

One of the most important checks and balances to unprecedented overreaching by the Bush-Cheney executive branch is an independent judiciary. I have sought to expedite consideration of qualified, consensus nominees and urged the President to work with us to make selections that unite all Americans. When the White House fails to make those kinds of selections, I hope that the Republican-controlled Senate will stop rubberstamping them and stop using controversial judicial nominations to score partisan political points. Our courts are too important. The rights and liberties of the American people are too important. The courts are the only check and balance left to protect the American people and provide some oversight of the actions of this President.

SUSAN C. SCHWAB TO BE UNITED STATES TRADE REPRESENTATIVE

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Susan C. Schwab, of Maryland, to be United States Trade Representative, with the rank of Ambassador Extraordinary and Plenipotentiary.

The PRESIDING OFFICER. Debate on this nomination shall be as follows: Senator DORGAN for 30 minutes, Senator CONRAD 15 minutes, Senator BAUCUS, 10 minutes, Senator GRASSLEY, 30 minutes.

The Senator from North Dakota is recognized.

Mr. DORGAN. I ask unanimous consent the Senator from Iowa be recognized. I believe the Senator from Alabama wishes to be recognized. I am happy to proceed following those two.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I strongly support the nomination of Susan Schwab to serve as U.S. Trade Representative.

It is almost 7 months to the day since the Senate unanimously confirmed Ambassador Schwab to be Deputy U.S. Trade Representative.

During her service in that position, Ambassador Schwab has amply demonstrated her qualifications to take over as our next trade representative.

She successfully concluded negotiations of trade agreements with Peru and Columbia and has been actively engaged in the ongoing negotiations of the Doha Development Round of the World Trade Organization.

Given her strong background in trade policy, it is not surprising, then, that Ambassador Schwab has served so well in her current position.

Ambassador Schwab formally served as Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service. That is an agency within the Department of Commerce with people on the ground in foreign countries pushing for the interest of U.S. businesses.

She, herself, worked abroad to advance U.S. trade objectives while serving as a trade policy officer in the U.S. embassy in Tokyo.

Her first job in Washington was as an agricultural trade negotiator for the Office of U.S. Trade Representative. Ambassador Schwab thus knows full well the importance and the challenge of advancing the trade interests of U.S. family farmers.

Ambassador Schwab also has extensive experience working for the Congress of the United States, the very committee that I chair. She spent 8 years during the 1980s as a trade policy specialist and then as legislative director for then-Senator Danforth at a time when he chaired the trade subcommittee of this Committee on Finance.

Ambassador Schwab is well aware of the important role Congress plays in U.S. trade policy. I look forward to working closely with her in advancing U.S. trade objectives.

In addition, Ambassador Schwab has experience working on trade issues also in the private sector. At one point, she was director of corporate business development for Motorola. In that position, she engaged in strategic planning on behalf of Motorola in the continent of Asia.

More recently, she served as dean of the University of Maryland School of Public Policy. That was from 1995 through the year 2003, and then as president and CEO of the University System of the Maryland Foundation, as well as serving as vice chancellor for advancement.

Her academic and private-sector experiences complement her strong background in Government service. She is well rounded, in other words. Given the major challenges we face in advancing a robust trade agenda, it is especially important we have someone of Ambassador Schwab's caliber serving as U.S. Trade Representative dealing with 149 countries that are members of the World Trade Organization.

We need to achieve substantial progress in Doha Round negotiations, and soon, if we are going to succeed in getting an agreement before trade promotion authority for the President of the United States expires next year. We still have a long way to go on those negotiations to reach an ambitious outcome that would be acceptable to me as chairman of the committee, but I think I can speak for the entire Congress on that point.

We are also in the process of negotiating free trade agreements with a number of important trading partners, including South Korea and Malaysia. These are going to represent terrific challenges. These are going to represent yet new challenges for her, particularly in addressing regulatory and other nontariff barriers to trade.

It is essential our bilateral negotiations with South Korea, Malaysia, and other nations conclude in time to be considered under trade promotion authority which expires July next year.

In addition, it is important our next trade representative continue to encourage meaningful regulatory reform in other major trading partners, especially Japan and China.

I expect Ambassador Schwab to continue to push our trading partners to come into compliance with their existing trade obligations such as and not limited to these: Mexico's obligation under NAFTA and the World Trade Organization regarding the importation of U.S. agricultural products and China's obligations to protect intellectual property rights.

Separately, I expect any bilateral agreement on Russia's access to the World Trade Organization will be concluded on strong, commercially meaningful terms and will not be rushed to meet some artificial deadline. Russia must demonstrate its willingness, its ability, and its commitment to abide by World Trade Organization rules.

It is important we remind ourselves of the tremendous benefits we derive from open international trade because too often we hear criticism of our trading regimes. As an example, on average, over the past decade, our economy has created a net of 2 million jobs each year. In 2005, our unemployment rate dropped to 4.7 percent, which is well below the averages of the 1970s, 1980s and 1990s.

An important part of our economic success is due to our trade. During the last decades, our exports have accounted for about one-quarter of U.S. economic growth. Jobs created by exports are estimated to pay 13 to 18 percent more on average compared to jobs unrelated to exports.

With respect to agriculture, approximately one-third of the acres planted in the United States are exported. Our service sector, which accounts for almost 70 percent of the U.S. economy, is anxious to break down barriers to our exports of services around the world.

Today our services exports account for a little more than a quarter of the total U.S. exports of goods and services, so breaking down barriers to our

services exports would go a long way toward helping us improve our trade deficit.

Therefore, we in the Congress need to recommit ourselves to securing improved market access for our exporters, both in the Doha Round negotiations and by means of bilateral and regional trade agreements.

I am confident Ambassador Schwab will effectively meet each of the many challenges she will face as our next trade representative. Her experience and her skills make it quite evident she is the right person for the job. I urge my colleagues to join me in supporting her nomination. Once confirmed, I look forward to working with her to advance an ambitious trade agenda and would expect her to consult under the law trade promotion authority with our committees when we ask her to and when she thinks it is necessary for her to make advances to us on that sort of communication because consultation between us prior to a negotiation being signed is the basis for the success and the opportunity to get such an agreement through the Congress.

Mr. SHELBY. Would the Senator from Iowa let me speak for 2 or 3 minutes as in morning business?

I support the nominee. There is no objection by Senator DORGAN.

Mr. GRASSLEY. The Senator can have whatever time he desires.

The PRESIDING OFFICER. The Senator from Alabama.

(The remarks of Mr. SHELBY are printed in today's RECORD under ''Morning Business.'')

Mr. SHELBY. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, what now is the business before the body?

The PRESIDING OFFICER. The Schwab nomination.

Mr. CONRAD. I thank the Chair.

Let me indicate as a member of the Finance Committee that we had hearings on the Schwab nomination. Let me stipulate that she is well qualified for the position. She is a lovely person, well educated and well trained. With all that said, after her testimony before the Finance Committee, I decided reluctantly that I would oppose her nomination. I want to share very briefly with the Members why I made that judgment.

When Ms. Schwab came before the Finance Committee, I put up a chart showing what has happened to the trade deficit of the United States. The trade deficit soared to over $700 billion last year. I had another chart that showed what has happened to the trade deficit with Mexico since the NAFTA agreement. Before the NAFTA agreement, we had a trade surplus with Mexico of several billion dollars. Now we have a massive trade deficit with Mexico.

I asked Ms. Schwab: Is this a successful trade policy?

Her answer was: Yes.

I told her: If this is a success, I would hate to see a failure. Because this trade policy is proving to be a disaster for the financial health of the United States. We are spending $700 billion a year more in purchases than we are in sales. A country cannot do that for very long.

Then I asked her about agricultural trade policy. I asked her about the strategy of our trade ambassador going into the trade talks and making unilateral concessions, offering to cut support for our producers by 60 percent on the notion that then the other side would make concessions to us. I told her this is the strangest way to negotiate that I have ever seen. Unilateral concessions on the hope that the other side will follow suit—who has ever seen that in a negotiation? That is like going to the car dealership and agreeing to pay the sticker price. Why would you ever do that?

Ms. Schwab told me this is actually a smart trade tactic, a negotiating tactic, that you make big concessions on the front end and then you get tougher at the end. I don't think that is smart. I think it is a disaster. We are in a circumstance in which the Europeans provide five times as much support for their producers as we provide for ours. They account for more than 90 percent of the export subsidy in the world. We are about 1 or 2 percent. So they have us outgunned there 70 or 80 to 1.

Our idea of a negotiation is to make major unilateral concessions and then hope the other side gives in. What happened with this strategy? Did Europe then follow and make major concessions in response to ours? No. They made none.

I fear we are pursuing a trade agenda that is simply not working. I would present as exhibit No. 1 record trade deficits, the biggest in our history and growing dramatically.

Exhibit No. 2, NAFTA: We signed on to the NAFTA agreement. Our leadership told us this was going to be a great success. At the time we had a positive trade balance with Mexico. Now our trade deficit is measured in the tens of billions of dollars a year. This is a trade policy that is not working.

I cannot support as our trade ambassador somebody who clearly believes that is a success. How could anyone define this as a success?

I have reluctantly concluded that if we were to have a vote, and apparently this will be on a voice vote, I want it clearly recorded that I would vote ''no.''

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I understand there is an order with respect to my presentation on this matter.

The PRESIDING OFFICER. The Senator has been allocated 30 minutes.

Mr. DORGAN. Mr. President, this reminds me of Madam Tussaud's wax museum. It looks like there are people here, except there is no movement. Month after month after month, we hear the results of unbelievably bad trade agreements that pull the rug out from under our workers and farmers, pulling the rug out from under our economy, ringing up the highest trade deficits in the our history, shipping American jobs overseas, even as we import cheap labor through the backdoor, and no one says a thing. No one does a thing. We today have a proposal before us to approve the nomination of a new U.S. trade ambassador. For what purpose?

Let me describe what is happening with our trade deficit. This is the trade deficit from the most recent year going back to 1995. We are hemorrhaging in red ink.

These are the largest trade deficits in the history of humankind, by far, not even close with any other country. What does this mean? This means that we are selling part of our country every day to those who live outside of our country. It is called the selling of America.

We seem to think that it is all right to have a trade deficit of $2 billion a day. That means that we import products more than we export to the rest of the world, and we pay for those imports with our currency or debt instruments. The result is at the moment the bank of Korea holds $200 billion of our currency; the Chinese, $750 billion; the Japanese, $800 billion; the Taiwanese, $250 billion. We are literally selling our country with these trade deficits every day.

Trade deficits are not just about selling America piece by piece. It is about shipping American jobs overseas and undercutting American workers all at the same time.

Winston Churchill said: The further backward you look, the further forward you can see. So I will look back a little bit. It is surprising to me that we have the nomination of a trade ambassador on the floor of the Senate and no real discussion, save that of my colleague, Senator CONRAD, about the merits of where we are headed. This country is dangerously off-track with wildly inflated and mushroomed trade deficits. It is getting worse, much worse, not better. Yet there is not a whimper here in the Congress about it.

Part of the reason is that the folks who work here are not going to have their jobs outsourced. No one wearing a blue suit and suspenders who hangs around here is going to have their job sent to China. If that were the case, we would have a change in trade policy immediately. But nobody loses their job here. For that matter, no journalist loses their job. That is why all you

read, for example, in most of these major newspapers in support of this trade policy that, as we can see from this chart, is a massive failure. Just take a look at a portion of it. Two hundred billion of that $700 billion is with China alone. You can take a look at what is happening there, dramatic growth.

Here is the trade strategy we are currently working under: exporting good American jobs and importing cheap labor. We just finished importing cheap labor with the immigration bill 2 weeks ago. I didn't support that. I voted against that. I voted against the trade agreements that have allowed us to export good jobs.

I have gone through at great length in the Senate a range of issues. Let me use a couple to describe what has happened and what our trade agreements are about.

We are now negotiating a trade agreement with Korea. Let me talk about automobile trade with Korea. See if anybody cares about that, see maybe if this new trade ambassador would care about that. Last year we got 730,863 cars coming in on ships from Korea. They loaded all the Korean cars on ships, sailed across the ocean and offloaded 730,000 Korean cars in the United States.

Guess how many American cars we were able to sell in Korea. Seven hundred thirty thousand? No. Four thousand two hundred. Ninety-nine percent of the automobiles on the streets in Korea are produced in Korea. Why? They don't want American vehicles to be allowed into their market. They want to send their vehicles here for sale, but they don't want our vehicles sold in Korea.

This imbalance exists. Does anybody care about it? It doesn't mean a thing to most people. What it means to a lot of families is they have lost their jobs. United Auto Workers have lost their jobs. But nobody cares much about that because nobody in this Chamber is going to lose their job because of this imbalance in automobile trade.

Japan: 95 percent of the cars driving in the streets of Japan are produced in Japan. Why don't we export more cars to Japan? They don't want them. They, like China and many other parts of the world, including Korea, want to exercise their right to send their products to the American marketplace, but they sure don't want to have their marketplace wide open to that which is produced by American workers. That is the last thing they want.

Let me go back a few decades to 1970 or so. The largest American corporation was General Motors. In most cases people who went to work for GM worked there for a lifetime. That was their job. They were going to retire there and did. They worked there for a lifetime, got good pay, good benefits, good retirement. Now, 30 years later, the largest corporation in America is Wal-Mart. Average salary, according to published reports, is about $18,000 or $19,000 a year.

A substantial portion of their employees have no benefits. Of those eligible for health care benefits, they pay double the amount that most employees of corporations would pay for health care. Many of those who do have full-time jobs at low salaries cannot afford the benefits that are offered. So have we made progress in these 30 years?

By the way, with respect to Wal-Mart, 70 percent of the products on their shelves is from China. Wal-Mart's pressure will lead their to close their American operations and move them to China. The only way to sell it the way the we want to is have it produced in China, where you can pay a worker 33 cents an hour.

I read a month or so ago that China has finally purchased Whammo Corporation. There are a lot of companies moving, deciding they cannot afford to produce in America anymore. They don't want to pay U.S. workers decent wages. They want to produce in China for 33 cents an hour, where you don't have to worry about health care and retirement. We have seen 4 million to 5 million American jobs gone from our country.

I noticed in the newspaper that Chinese purchased Whammo Corporation—Frisbee, Hula Hoop, Slip 'N Slide. It is sort of the hood ornament on what is wrong with our trade. So Whammo is gone. What about the steelworker in America or the textile worker in America or the metal fabricator in America or the family farmer or the software engineer—their jobs are gone in increasing numbers.

Alan Blinder, the former vice chairman of the Federal Reserve Board, said recently in a Foreign Affairs article that there are roughly are 42 million to 56 million jobs in America that are subject to being outsourced to other countries—China, Indonesia, Sri Lanka, Bangladesh, and more.

American companies have discovered that this large planet has a billion to a billion and a half people, and perhaps more, where if you move the technology and capital, you can employ people in other parts of the world for pennies. You can hire kids, you can work 12-year-olds 12 hours a day and pay them 12 cents an hour. You can ship the product to Toledo, Fargo, Los Angeles, or Lansing, MI, and say to the American producer and business and worker: Compete with that. The fact is, you cannot compete with that, and you should not be asked to compete with that.

We fought for a century in this country for the standards of production that have made this a great place and allowed us to expand the middle class. I have spoken before about James Fyler, who died of lead poisoning; he was shot 54 times. Earlier in this century, he and others were standing up for the right of people to organize, for workers to be able to organize. We finally became a country in which workers can organize without having to go to prison, like they do in China. I have the names of people sitting in prison in China because they wanted to organize workers for a fair deal. We signed the Fair Labor Standards Act in this country and established a minimum wage and gave people the right to organize. We did a whole series of things—child labor laws—that have established the conditions of production, that produced a burgeoning middle class and the strongest economy the world has ever known. Now it is systematically being taken apart. I know it is hard to see day by day, but you watch what is happening in this country to the good jobs, the jobs with security that pay well, with benefits. One by one, 1,000 by 1,000 and, yes, a million by a million, they are leaving this country.

No, it is not just the bottom rung of the economic ladder; it is also engineers, software producers, and others. Nobody here seems to care very much. This Congress certainly doesn't. This Congress supports all that. This Congress supports giving a tax break to companies that ship their jobs overseas. Show me a company that fires all the American workers and ships their jobs to China, and I will tell you that this Congress supports giving that company a tax break—$1.2 billion a year our current Tax Code spends in tax cuts to companies that ship their American jobs overseas. It is unbelievable.

I have offered four amendments in this Senate to shut that perverse tax break down and I have lost four times. In 2005, Bo Anderson, one of the top executives at General Motors dealing with parts and supplies, called 380 parts and suppliers together; he called the executives of the parts suppliers to a meeting. He said to them that you need to be building your automobile parts in China to reduce the cost. In other words, move those jobs offshore, get rid of those American workers. Delphi, which used to be the largest General Motors parts supplier, were paying workers $26 to $30 an hour with benefits. Well, that is over. They are in bankruptcy and, of course, it is blamed on the workers. Nobody talked about the executives and what role they might have had. They want to outsource the jobs, and for the jobs they would keep here, they want to pay $8 to $10 an hour. I am wondering how you create a country with a growing middle class and a consumer ability to make purchases in this country if jobs are going elsewhere in search of pennies an hour. IBM laid off 13,000 people; they are going to ship the jobs to India. They said to workers, by the way: This is not a comment on the excellent work you have done. See you later. Your job is gone.

The question is, What are we building and what does all this mean? The reason I mention all of this is that all of it comes from trade agreements. We have all of these trade agreements, and one is NAFTA with Mexico. We turned

a small trade surplus into a giant deficit with Mexico. It is pretty unbelievable when you think about it. My colleague says that the current nominee believes that the trade agreement with Mexico is a huge success. She has not lost her job to outsourcing either. But it is not a success by any standard. The trade deficit with Mexico and with Canada and with Europe, with Japan, Korea, and China—it is a disaster. Nobody seems to care much.

Now, I want to talk a little about this notion of free trade. It sounds like such a wonderful term, ''free trade.'' Freedom. Free trade means that you want to substitute that which we have fought for and built, that which people have died for, that which people have debated for a long time—what are the standards of production? What is being an American all about? What is protecting children? What is a fair wage? What is a safe workplace? What is the right to organize worth? It is trading that in and saying none of that matters. The largest corporations can polevault over all of it and move their factory to China. We are taking apart that which we built for a century. That is what the trade agreements are doing. I have shown you the red ink. So the trade agreements are an abysmal failure.

I would like to speak now about something that we learned very recently, involving sweatshops in the country of Jordan.

At the outset, let me say that the trade agreement with Jordan was slightly better than all the others. I give credit to President Clinton because they negotiated a free trade agreement with Jordan that had standards with respect to workers' rights, for a change. So it was a step forward—not a giant step but a step in the right direction.

What has happened to trade with Jordan since that time? The New York Times has written an article based on some work by the National Labor Committee. They have done terrific work investigating what is going on in Jordan. Remember, this was supposed to have created the gold standard for labor protection for workers, signed in 1999. But what happened since then is that Jordan has flown in so-called guest workers from countries such as Bangladesh and China to make products in Jordan for export to this country. So we see products in stores such as Wal-Mart, Target, and others, that have now, we know, come from sweatshops in Jordan under our free trade agreement.

Here is how the New York Times describes these sweat shops:

> Propelled by a free trade agreement with the U.S., apparel manufacturing is booming in Jordan. Exports to America are soaring twentyfold in the last 5 years. But some foreign workers in Jordanian factories that produce garments for Target, Wal-Mart, and others are complaining of dismal conditions—of 20-hour days, of not being paid for months and months, of being hit by supervisors and of being jailed when they complain.

These factories in Jordan are flying in planeloads of workers from the poorest countries, such as Bangladesh, to work in slavelike conditions. They also ship in Chinese materials—textiles in this case—to those manufacturers. What you end up with are Bangladesh workers working up to 120 hours a week in sweatshops in Jordan piecing together Chinese materials to be shipped into the United States under free trade agreements to be sold in a Wal-Mart or a Target.

Is that what free trade agreements are supposed to be about? I don't think so.

The workers at these Jordanian sweatshops testified they were forced to work far below minimum wages, promised $120 a month, but in many cases they were not paid at all. One worker paid $50 for 5 months of work. It is unbelievable to see what is going on.

Then when this is exposed in the New York Times, you hear people say: Well, we had no idea this was going on. It is kind of akin to the French police chief in the movie Casablanca, he was shocked to find that there was gambling taking place in Rick's Café. Nobody ought to be shocked by this. This is what is going on in the world.

I am going to introduce legislation at the end of my presentation today dealing with these issues of sweatshops and how we try to respond to them. My legislation will establish substantial civil penalties for the import of sweatshop goods. When sweatshop factories abuse workers for profit, the best way to attack the problem is to take that profit away. If the Federal Trade Commission determined that an overseas factory was producing sweatshop labor, it would issue an order prohibiting importation from that factory. Violation would carry a civil penalty, and each separate violation would be a separate offense. Also, my bill would allow U.S. retailers the right to sue their competitors in U.S. courts if their competitors are sourcing their merchandise from these sweatshop factories.

I feel strongly that as we come to talk about trade today and the nomination of a new trade ambassador, we ought to talk about what is going on in the real world. I have described previously so many stories. I was going to talk about Maytag—you know, the repairman who has nothing to do, and part of that is because Maytag is moving its jobs overseas these days.

Here are the dancing grapes in this picture. I love the dancing grapes from Fruit of the Loom. They make shorts and T-shirts that are all over America, and they have these people dressed up as grapes. Who on Earth would dress up as a grape? I guess a job is a job. Who is dancing in grape suits these days? That is the way they advertise this American underwear. Guess what. It may still be all-American underwear, but it is not made here anymore. They danced right out of this country. Fruit of the Loom is gone to Mexico. And it is not just Fruit of the Loom. The best example I know is Huffy bicycles. They are now a Chinese company. They got rid of all their Ohio workers; they fired them because they made too much money, $11 an hour. They have now become a Chinese company. You can still buy them here, and they produce a product they call all-American. It is just that they are made in China. I happen to know where. They pay 33 cents an hour there, and all those American workers who lost jobs, who had a long career making these bicycles at the largest bicycle plant in the world, they were told: Your career is over. You make too much money at $11 an hour, so Huffy has gone to China. If you had a Huffy years ago, you noticed there was an American flag decal on the front. That is gone too. Now it is a decal of the globe.

By the way, on the last day of work at Huffy Bicycles, when their jobs left for China, I was told that when the workers left the parking lot, as they drove out of the lot, they left a pair of empty shoes in the space where their car was. It was a way of saying to the company that you can move our jobs to China, but you are not going to be able to fill our shoes. That is how much they cared about their jobs.

Little red wagon, Radio Flyer—I bet there is not a kid around who hasn't ridden in that little red wagon. Of course, that was American for a century. Gone to China. The list goes on and on. I could talk for hours about companies.

Levi's. There is not one pair of Levi's made in America. Talk about all-American jeans—there is not one pair of Levi's made in America. If you wear Tony Lama boots, you might be wearing boots made in China, by the way. The list goes on and on.

The question for this nominee for the U.S. Trade Ambassador's job is, Do you care whether these jobs are gone from our country? Do you care whether Americans are now asked to compete against those in other parts of the world who make 33 cents an hour? Do you care about that? Do you care that our workers are asked to compete against young kids, some of them locked in manufacturing plants, some of them hand-weaving rugs, some of them whose fingertips were scarred by putting sulfur on the fingertips and lighting the sulfur in order to produce a scar so that when they are using the needles on the rug and they stick their fingers, they won't bleed? Do you care about all that?

How about a trade policy that stands up for the interests of our country? Yes, I think we ought to trade. Yes, I think expanded trade is good for our country. But it must be and has to be fair trade. You cannot say to companies: All right, we have decided over a century what the conditions of production are in this country that represent a growing middle class and a growing economy and a humane way to do things. We have decided that, but you

can avoid all of that by just deciding to shut your American manufacturing plant, move the jobs elsewhere, and if somebody messes with you when your plant has moved overseas and they want to organize workers for better wages, you can get the government to throw them in prison. If somebody cares about you putting poisons in the water and the air, pumping effluent and pollution into the water and the air, you don't have to worry about that because you can do that with impunity. When somebody says you can't hire children, you don't have to worry about that because you can put kids in your manufacturing plant. And if somebody says OSHA is going to come, you can say: There ain't no OSHA here; I can do what I want here. And by the way, when I get the product produced, I am shipping it to the United States of America because I have store shelves to fill and I have American customers who want low prices. I know, they are the same customers who are going to drive Korean cars to the store, wear their Italian shoes, wear their Taiwanese shirt, wear their Chinese slacks, and they are going to wonder where all the American jobs went.

I would like to ask one of these days when we have a change in the U.S. trade ambassador's job what they really think success is. Do you really believe this hemorrhaging of red ink, selling America $2 billion a day to foreign governments, foreign enterprises, do you really believe that can continue? It cannot. That just cannot continue.

And, oh, by the way, the strategy I described earlier that I believe doesn't add up for our country is a strategy by which we tell companies: You can export good American jobs, and you can import cheap labor. That was the immigration bill, the last portion—export good jobs, import cheap labor. I am saying that doesn't add up.

At least a portion of that—exporting good jobs and importing cheap labor—is now attended to by a desire to decide that when you export good jobs and import cheap labor, you can run your profits through the Cayman Islands so you don't have to pay taxes in this country.

This little house, I have told my colleagues before, this five-story white house, called the Ugland House on Church Street in the Cayman Islands, is home to 12,748 corporations. That is right. They are not there; it is just a figment of someone's imagination. Lawyers have established this address for 12,748 corporations for one purpose, and that is to avoid paying U.S. taxes. It is unbelievable, if you think about it.

So export your jobs, import your products here, sell them in the United States, and run your income through the Cayman Islands. I am just saying none of this adds up and none of it works.

I agree with my colleague who described a while ago his opposition to this trade ambassador. I don't believe the nominee is unqualified, I just believe there our trade policy is terribly misguided. That is pretty troublesome because I don't think this country will have the kind of economic strength that expands so that our kids have jobs, good jobs that pay well with benefits in the future. I don't think it is going to happen. I wish I were wrong. I don't think I am. Yet all this continues in a giant silence. Nobody seems to care very much.

Let's just continue doing this. We will sell a little bit of America every single day, keep shipping jobs elsewhere, not think much about it because we can buy a cheap product at Wal-Mart, and it will be just fine. Be happy. I am just saying I don't think this adds up for our country's future.

I don't support this nomination because I want a nominee at the U.S. trade ambassador's office who is going to stand up for a trade policy that is fair for this country—fair trade.

A colleague just came into the Chamber who comes from a State that has a lot of ranching. We are not getting beef into Japan at the moment. That is a different story. It is unbelievable with the trade deficit that we can't get beef into Japan. Let's assume that problem was resolved tomorrow. Every pound of beef that would go into Japan would have a 50-percent tariff on it, and that's 16 years after we had a beef agreement with Japan. That is just a tiny little example, beef to Japan. That would be considered a failure by any standard, a 50-percent tariff a decade and a half after the beef agreement.

We blithely go along and say: Be happy, it will be fine, drive to Wal-Mart and pick up an Etch-A-Sketch and be happy. It doesn't matter. This will all work out in the end.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. DORGAN. Mr. President, I ask unanimous consent for 4 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I conclude by describing one of the concerns I have about the silence on these issues. Some long while ago, I was on the floor of the House of Representatives when there was a joint meeting of Congress. A fellow named Lech Walesa was speaking to Congress at a joint meeting.

Lech Walesa told a story—pretty unbelievable—a story, of course, I had known from the history books. He told us this: He said it was Saturday morning in a shipyard in Gdansk, Poland. He had been fired from his job as an electrician from this plant. He went back into the shipyards on Saturday morning to lead a labor strike against the Communist government, believing workers ought to have the right to self-determination. He went back in to lead a strike against the Communist government. They seized him that Saturday morning and brutally beat him, beat him bloody, took him to the edge of a fence that was heightened with barbed wire and threw him over the barbed-wire fence into the dirt on the other side of the fence.

He laid in the dirt face down, bleeding, having been beaten severely. He told us he wondered what he should do next. As he lay there, he decided what to do next. He picked himself up, climbed back over the fence into the shipyard, right back into the same shipyard that morning. Ten years later, this unemployed electrician was identified by the Doorkeeper of the U.S. House of Representatives as the President of the country of Poland—not an intellectual, not a military leader, not a business leader, just an unemployed electrician with the guts to take on the Communist government for a free labor movement.

They called it Solidarity. We all celebrated solidarity. What a wonderful thing it was. We supported Solidarity. He said to us: We didn't have any guns; the Communists had all the guns. We had no bullets; the Communists had all the bullets. We were workers armed with an idea. We were armed only with an idea; that is, people ought to be free to choose their own destiny.

What is the idea here? What is the idea in America by which we fought for 100 years for the basic standards, by which we expanded the middle class, safe workplaces, decent wages, the right to organize? What is that idea, and does it have value now, or have we forgotten that idea and is there someone willing to stand for that idea today?

I hope so. I don't believe we ought to decide that which we created is somehow unworthy as we look to the future of this country, and I believe we ought to continue to build a place that is better for our children. We want a place, all of us want a place we can turn over to our children and grandchildren that is better than the place we inherited. That ought to be the goal.

I don't intend to ask for a recorded vote, but I do not support this nomination only because I think we are headed toward a trade strategy—and we have been in the middle of it for some long while now—that is injuring this country and is going to ship jobs overseas.

As I said when I started, Alan Blinder, a respected Vice Chairman of the Federal Reserve Board, said there are 42 million to 56 million American jobs at this point subject to outsourcing. Those not outsourced are still going to be required to compete with others in the world who make a great deal less money. That is not the way we are going to continue to build the economy we believed we were building for the last century.

I am not suggesting putting walls around our country. I am not a xenophobe. I am not an isolationist. I am not one who believes trade is not worthy. I do. But I think this country

ought to insist and lead in the area of demanding fair trade, demanding trade be fair, standing up for our businesses, standing up for our workers, and saying we insist on and demand fair trade.

Ms. MIKULSKI. Mr. President, I speak today in support of the nomination of Dr. Susan Schwab to be the U.S. Trade Representative. I have known Susan for a long time and have seen her great leadership and vision as dean of the University of Maryland School of Public Policy. As dean, Susan helped the school grow into one of the top public policy programs in the Nation.

I support fair trade, so American workers can compete. Dr. Schwab has demonstrated her commitment to this approach and to ensuring our Nation's economic competitiveness. Our top trade representative needs to be tough, smart, and have experience standing up for American interests. Dr. Schwab clearly fits that bill as well.

Dr. Schwab's qualifications for this position are first-rate. She is a former Foreign Service officer, serving in the U.S. Embassy in Tokyo and as a trade negotiator at the USTR. The experience of serving on the front lines of an office she will now help lead is particularly important. Dr. Schwab also has extensive experience in both the legislative and executive branches of the Federal Government. She was legislative director for Senator John Danforth and served as Assistant Secretary of Commerce and Director-General of the U.S. & Foreign Commercial Service in the first Bush administration.

In addition to her practical experience, Dr. Schwab is accomplished academically. While dean of the Maryland School of Public Policy, she taught a variety of graduate courses on U.S. trade policy and international relations. Dr. Schwab received her Ph.D. in public administration and international business from the George Washington University. She holds a master's in development policy from Stanford University and a bachelor's from Williams College.

I ask my colleagues to join me in supporting this nomination.

Ms. COLLINS. Mr. President, I am pleased to offer my strong support and endorsement of the confirmation of Ambassador Susan Schwab as U.S. Trade Representative. During her long career in public service, Ambassador Schwab has dedicated herself to advocating for the best interests of the United States in the global economy. I was delighted when I learned that the President had nominated her for the position of U.S. Trade Representative, a position for which she is ideally suited.

Throughout the 1980s, Ambassador Schwab was as a trade policy specialist and then legislative director for Senator John C. Danforth, playing a major role in numerous U.S. trade policy initiatives, including landmark trade legislation that Congress enacted in 1984 and 1988. While serving on the staff of Senator William S. Cohen and as staff director of the Subcommittee on Government Oversight, I worked closely with Ambassador Schwab on a number of trade issues affecting Maine and its industries.

In particular, Ambassador Schwab worked with our staff to support Maine's shoe industry and its workers during the industry's massive dislocations in the 1980s. She was instrumental in helping us develop legislation to address the industry's dire situation in those years, including critical improvements to antidumping, countervailing duty, and safeguard provisions. She also worked closely with our staff to improve market access for Maine agricultural goods in foreign markets.

Ambassador Schwab's professional and personal record of service will enable her to effectively represent U.S. interests around the world. She will make an outstanding U.S. Trade Representative.

Mr. BAUCUS. Mr. President, I strongly support the nomination of Susan Schwab to be our next U.S. Trade Representative. I have known and worked with Ambassador Schwab for many years. She has had a stellar career as a trade negotiator, a senior congressional staffer, a businesswoman, and a university administrator and professor.

I recently read a piece about Ambassador Schwab in the Washington Post. That article described her as ''a hard-nosed pragmatist, well versed in arcane trade economics, and a dazzling strategist and negotiator.''

She was described as excelling as ''a strategic thinker and consensus builder . . . able to quickly synthesize the thinking of Congress, the administration and special-interest groups.''

That Washington Post article is 19 years old. It is from July 1987. By that point, Ambassador Schwab had already honed her reputation in the international trade community.

She had already negotiated tricky agriculture agreements in the Tokyo Round. She had already helped draft provisions of U.S. trade law—like Super 301—that became a fixture of U.S. trade policy for the next decade.

She had already attracted both fear and admiration among many of our most recalcitrant trading partners.

Nineteen years later, Ambassador Schwab continues to demonstrate her skill as a seasoned trade negotiator. In her tenure as Deputy U.S. Trade Representative, she has settled one of the most difficult and complicated trade issues—our dispute with Canada over subsidized imports of softwood lumber.

She has worked tirelessly with our trading partners on trade agreements, and she has worked to obtain consensus among the 149 members of the World Trade Organization in the ongoing Doha Round negotiations.

Ambassador Schwab will need all of her skills to carry out the job as U.S. Trade Representative. We have entered one of the most difficult periods in trade policy that I can remember—both with our trading partners and domestically.

At the top of Ambassador Schwab's agenda will be shoring up the Doha Round. Unless something changes soon, these talks are at serious risk of collapse.

Our trading partners continue to believe that America alone must make the concessions necessary for these talks to conclude. They forget that negotiations are two-way. They are give and take.

As I have told Ambassador Schwab, I will not be in a position to support any result out of the Doha Round unless several results are achieved: No. 1, the EU must commit to serious and meaningful reductions in agriculture tariffs; No. 2, Brazil, India, and developing world countries must commit to serious and meaningful reductions in industrial tariffs; and No. 3, our key trading partners must agree to open further their services markets.

Ambassador Schwab will also face serious challenges in our bilateral trade and economic relationship with China. China often makes promises—in the WTO and bilaterally—that it does not always keep. For instance, in April, China promised to lift its ban on U.S. beef. But China still has not done so, and it appears to be in no hurry.

In the coming months, I hope to work with Ambassador Schwab in creating a more sustained, structured, and comprehensive dialogue with China that allows the United States to hold China's feet to the fire on the promises that it makes.

And we also need a better framework to seek out ways to cooperate more effectively on issues of mutual economic interest.

Ambassador Schwab will also be responsible for negotiating the most challenging free-trade agreements to date. Agreements with Korea and Malaysia—our 7th and 10th largest trading partners respectively—hold great promise. But each presents unique and difficult issues that we must address in order to build political support for these agreements at home.

That will be Ambassador Schwab's greatest challenge—building political support for trade at home. It is no secret that support for trade has evaporated.

Since Congress granted this administration trade promotion authority in 2002, Members have been asked to take a series of difficult votes on trade agreements with small countries of limited commercial value.

Since that time, the concerns Members of Congress have expressed about the administration's trade strategy have fallen on deaf ears, and since that time, support for trade among usually protrade constituents has waned considerably.

As a result, when trade promotion authority expires next year, I do not think Congress will renew it without major changes. I do not anticipate new

fast-track authority until Congress, the administration, and all relevant stakeholders are willing to engage in a serious discussion. They need to answer the tough questions that remain unaddressed: questions relating to trade adjustment assistance and other programs to help those who may be hurt by trade, questions about the role of labor in our trade agreements, and questions relating to the relationship between trade and a competitive U.S. economy.

These are hard issues, and Ambassador Schwab will have to face them head-on. But I have full confidence that Ambassador Schwab has the skills, experience, and the guts to tackle them. Indeed, she spent most of the 1980s grappling with very similar issues when she worked for Senator Danforth in both the majority and the minority.

Nineteen years ago, the Washington Post described Susan Schwab as a ''strategic thinker'' and a ''consensus builder.'' We need these skills at the U.S. Trade Representative, now more than ever.

I look forward to working closely with Ambassador Schwab and urge my Colleagues to vote to confirm her today.

Mr. HATCH. Mr. President, today I rise to give my complete support for Ambassador Susan Schwab who will become our Nation's Trade Representative.

I have been dismayed that the Senate did not move more quickly on this nomination. I have also been disappointed by the opinions, of some, who state that her nomination is an indication that the administration is deemphasizing trade policy.

Obviously, these individuals do not know Ambassador Schwab.

I, on the other hand, have had that privilege of working with her and join the vast majority of my colleagues in stating that that Ambassador Schwab is a tenacious, forceful, yet thoughtful advocate of our Nation's trade agenda.

Our Nation is at a critical juncture. In 2005, the United States trade deficit widened to a record $726 billion, increasing to 5.8 percent of the Gross Domestic Product from 5.3 percent in 2004, and 4.5 percent in 2003.

Many economists now describe the trade deficit as unsustainable. For example, C. Fred Bergsten, Director of the Institute for International Economics, has pointed out ''the United States must now attract almost $7 billion of capital from the rest of the world every day to finance our current account deficit and our own foreign investment outflows.''

In order to meet these challenges, we need our best and brightest working on solutions. Solutions that ensure that that the Doha Round lives up to its potential, while ensuring that a level playing field is created for American farmers, manufactures and service providers.

Solutions that enable the United States to move expeditiously in our free trade negotiations with Korea and Malaysia thereby providing unfettered access to these markets.

Mr. President, I cannot think of anyone better suited to find these solutions then Ambassador Susan Schwab. I am very pleased that the Senate confirmed her nomination just minutes ago.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, how much time is on this side?

The PRESIDING OFFICER. Senator GRASSLEY controls 20 minutes.

Mr. THOMAS. Mr. President, it is a pleasure for me to have the opportunity to discuss the nominee who is before the Senate. I am chairman of the Trade Subcommittee on the Finance Committee, so I have had an opportunity to deal with some of these issues for some time. I was also chairman of the Foreign Relations subcommittee on Asia and the Pacific Rim. These are areas about which I feel strongly.

Fortunately, I had a good deal of opportunity to visit with Susan Schwab, the President's nominee for U.S. Trade Representative.

Obviously, this is a very important position, the position that Rob Portman had over the past 9 months or a year. He has done an excellent job of representing the United States in a situation that is not easy.

The United States is a little different from most countries in the world. They see us a little differently. They expect more from us than we should be asked to give, but nevertheless that continues to be the case. We have to seek to find equality and fairness.

Based on my discussions with her, I think she is an outstanding selection. Senator GRASSLEY talked about her background, and certainly she is well prepared for the position. Her credentials speak for themselves. That is very important in this issue.

Trade is very easy to talk about. Some of my friends on the other side talk about trade is all bad and there is nothing right about it. There is a lot to trade that we have to figure out. We have a lot of demand for overseas goods and, of course, we are the biggest buyer in the world; therefore, we are the biggest trader in the world. So it feels a little differently. It doesn't mean we should not have fair and equal treatment. That is what we seek to have, and that will be the task she undertakes. She will be a strong voice for American trade policy. I believe that is excellent, and I am so pleased.

We are the largest trading nation in the world, and the world is changing, as we know. Twenty years ago, it was quite different. Everyone was fairly isolated. Now, with the kind of communications we have and the kind of transportation that is available—why, there are billions of dollars moving around the world every day. It becomes quite difficult. The countries are changing very fast.

We deal with China today much differently than we did 10 years ago, as we will have to in the future. Foreign trade is not an easy matter with which to deal. What we need to seek and do seek is fairness. Frankly, that is a little difficult in the world because everyone thinks that because we are such a prosperous country, they should have special treatment. But our effort has been to have fair trade, and that ought to be what we do, and that is what we are seeking.

I have met with Susan Schwab and talked about that point, and the fact that we are the largest trading country in the world should not give others an unfair advantage. We need to trade in a fair way, and I think that is what she is committed to do, and certainly I support her for that.

We are the largest trading nation in the world. So, of course, we are the target of most everyone who wants to increase their sales. We also, however, have some opportunities to increase our sales as well, and we are doing some of that. Our demand, because the size of our economy, of course, is large, and we are interested in pursuing those kinds of opportunities. So trade is going to happen, and it is going to increasingly happen as times change and the world becomes smaller. Simply because of our ability to communicate and our ability to move around the world, it will become smaller.

So the challenge is how we can trade fairly with these other countries. Many of them think, Oh, you are the big, rich country; you ought to be able to give us a lot of things. That really ought not to be what we are dealing with. We ought to be dealing with fair trade. I think that is the point. It is what I have talked to Susan Schwab about, and she certainly is agreeable to that.

More than 25 percent of the U.S. gross domestic product is tied to trade, so it is an important aspect of our economy. Ninety-six percent of the world's consumers live outside of the United States. So in terms of our production, we need to be involved in world trade and we need to make it fair. And that really, of course, is the challenge.

It is easy to be critical about everything we do in trade. The fact is, particularly with some of the commodities in my State of Wyoming, trade is about selling our markets somewhere else. So we need to understand that. Again, the key is fair trade and that is what we are talking about. We need to find ways to open the world market to our goods and our services, and we ought to be able to enter into the market on the same basis as anyone else, and at the same time hold others to the same considerations that we have when they come here. We need to pursue both bilateral and multilateral negotiations, and of course that is what we are doing. And we need strong leadership to do it and to represent our interests in these discussions.

So I think that is exactly what we will be able to do. We are making progress.

My colleague mentioned the fact of the cow business in Japan. Well, that is a problem. Frankly, it is not a trade problem as much as it is a mad cow disease problem. It has been handled wrong, and we are working toward getting that resolved. Our best potential and the largest growth we have in the beef industry and exports has been in Asia. That is where we are now. We have been able to open up the markets in Australia and in South Korea, and we had the markets pretty much open in Japan until the mad cow disease came along, and now we are in the process, hopefully, of getting them open again. So that is very important, and we need to continue certainly to do that.

We need a strong leader to represent our interests. I think that is exactly what we will get with Susan Schwab, and that leadership is what we need. Bob Portman has done a very good job, and she has worked with him, of course, in getting us into this position. So we need to have good leadership to walk away from some of the bad agreements, the tough agreements that we have had. The world is sometimes difficult to deal with, but Susan Schwab will provide that leadership.

During her testimony before the Finance Committee, of which I am a member, she stated:

> It will take more than a willing spirit to forge good trade policy in the next 5 years. It will require us to keep the multilateral process on track in the WTO, to negotiate commercially significant free trade agreements, and to enforce vigorously the terms of those agreements and to uphold the rules of trade.

So that is what we are really faced with. These smaller countries, these countries that frankly generally have less economic strength than we do and they always want special treatment: Well, you guys can afford that. What we need is fair trade, and that is what trade is all about, and that is why it takes a leader to do that. So I am very pleased that she is there and that she is willing to do this. She is well trained to do it.

She further stated that her success may require:

> An honest, sometimes blunt, but always respectful exchange of views, along with a willingness to compromise when possible and the strength to stand firm when necessary.

The strength to stand firm when necessary. To me, that is probably the most important element of the trade negotiations that we enter into, is to be able to stand firm on what we agree on, and we ought to be in a position to do that when we are as big a buyer as we are. We also need to have some muscle on the other side, and we can do that.

I am pleased with the commitment she has made to reach out and listen and consult with Members of Congress on both sides of the aisle. Engaging Congress in a bipartisan way upfront and throughout the process will be crucial, and she will do that. Ms. Schwab understands this, and I am confident that she will follow through.

So I look forward to working with her. I am looking forward to one of the important elements of our economy, and that is world trade, and doing it in a fair manner.

Mr. President, I yield back all time on behalf of Republicans and Democrats and ask for a vote.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Susan C. Schwab, of Maryland, to be United States Trade Representative?

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

MORNING BUSINESS

Mr. THOMAS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

A VICTORY IN THE WAR ON TERROR

Mr. CORNYN. Mr. President, earlier today, we witnessed an important victory in the war on terror and in the continued march of freedom and democracy in Iraq.

Al-Zarqawi, like Saddam Hussein, was a mass murderer. I am not sad to say that he has made his last video.

I could not be more proud of our men and women in uniform—our military and intelligence services and those individuals who participated in this particular operation. Our intelligence and military forces have demonstrated their exceptional abilities and reminded us yet again that, through patience and resolve, we will continue to win the war on terror and advance the cause of freedom around the globe.

So I want to say to our military forces and our intelligence community serving all around the world that we support you, we are proud of you, and we know that you will continue to keep up the good work.

Mr. SHELBY. Mr. President, last night the U.S. military, as we know now, working hand in hand with the Iraqi counterpart, located and killed al-Qaida terrorist Abu Mus'ab al-Zarqawi. We know who this terrorist is. He is a brutal terrorist who has repeatedly encouraged violence against Americans and Iraqi citizens.

Al-Zarqawi is credited with ordering kidnappings, beheadings, and killings of innocent civilians with insurgent attacks. Al-Zarqawi was the operational mastermind of the al-Qaida network in Iraq. He sought to destroy America and our coalition partners to create a sanctuary for the al-Qaida organization in the Middle East. His death marks the fragmentation of al-Qaida's primary leadership and the silencing of a ruthless terrorist.

The military operation against al-Zarqawi was performed by our dedicated, professional Armed Forces in concert with our coalition partner. Our military servicemembers should be commended for their remarkable efforts in eradicating the enemy of a free and democratic Iraq.

Our war fighters worked tirelessly with our Iraqi counterparts tracking the movement of al-Zarqawi's followers, leading to his demise in last night's airstrike.

We are proud of the success of this operation, but even prouder of the job that our Armed Forces have accomplished in their commitment to peace and stability in Iraq. Although this is positive development and significant step in the global war on terror, our fight in Iraq is far from over. We are making significant strides toward eradicating terrorism, developing a free government, and reviving the economy. But Iraq will not become a democracy overnight. While our involvement continues to be difficult, our resolve must remain strong. We must remain focused on our fundamental goal—preserving the freedom and security of the United States. This is an enormous challenge that will take determination, global cooperation, and fortitude to succeed. I am confident the United States will triumph over global chaos and tyranny, as it always has. But whatever it is, we must back our troops.

RECIPIENTS OF THE ''HEROES AMONG US'' AWARD

Mr. KENNEDY. Mr. President, all of us in New England are proud of the Boston Celtics and their skill on the basketball court. We're also proud of the support they give to those who need help in our communities. Each year, the Celtics organization honors outstanding persons in New England as ''Heroes Among Us''—men and women who make an especially significant impact on the lives of others.

The award is now in its ninth year, and the extraordinary achievements of the honorees this year include saving lives, sacrificing for others, overcoming obstacles to achieve goals, and making lifelong commitments to improve the lives of those around them. The honorees include persons of all ages and all walks of life—students, community leaders, founders of nonprofit organizations, members of the clergy, and many others.

At home games during this season, the Celtics, their fans and the Massachusetts State Lottery saluted the efforts of each honoree in special presentations on the basketball court. Over 300 individuals have now received the ''Heroes Among Us'' award, and it has become one of the most widely recognized honors in New England. I commend each of the honorees for the 2005–2006 season. They are truly heroes among us, and I ask unanimous consent that their names and communities may be printed in the RECORD.

Bill Driscoll, Jr., Milton, MA
Captain Bob DeFlaminis, Franklin, MA
Sergeant Jim Flaherty, Quincy, MA
Michael Rodrigues, Hopedale, MA
Nick Prefontaine, Shrewsbury, MA
Chiara Arcidy, Bedford, NH
Dr. Sam Nosike, Watertown, MA
Brendan and Kelley McDonough, North Chelmsford, MA
Principal Bill Henderson and Patrick O'Hearn Elementary School, Dorchester, MA
Carrie Larson, Bedford, MA
Brian Russell, Merrimack, NH
Dr. Peter Raffalli, North Andover, MA
Bob Manger, Scituate, MA
Jay Blake, Marston Mills, MA
Jane Smith, Shrewsbury, MA
Adam Roberge, East Kingston, NH
Stuart Molk, Danvers, MA
Ron Bell, Milton, MA
Marie Poulin, Quincy, MA
David Russell, Ipswich, MA
Ryan Curtis, Lynn, MA
Alex Ingoglia, Malden, MA
Matthew Scibelli, Malden, MA
Brian Short, Medford, MA
Mirelle Manzone, Dover, MA
David and Stephanie Dodson, Weston, MA
Anthony Fiorino, East Boston, MA
Josh Algarin, Holbrook, MA
Georgiana Melendez, Peabody, MA
Reverend William Dickerson, Dorchester, MA
Theresa Reilly, Roslindale, MA
Dean Levy, Marshfield, MA
Sean McDonough, North Quincy, MA
Sarah Fader, Ipswich, MA
Suzanne Wintle, Weston, MA
Tiesha Hughes, Boston, MA
Stan Kosloski, Cromwell, CT
Ron Goodman, Quincy, MA
Theresa Lynn, Jamaica Plain, MA
Denise Carriere, Andover, MA
Mark Mitchell, West Springfield, MA
Donna Tardif, Freeport, ME
Lieutenant Jim Meeks, Chestnut Hill, MA
Donna Fournier Cuomo, North Andover, MA
Members of the Original Tuskegee Airmen: Luther McIlwain, Methuen, MA, James Sheppard, Portland, ME

AGRICULTURE DISASTERS IN SOUTH DAKOTA

Mr. JOHNSON. Mr. President, extreme weather conditions pounded much of South Dakota in 2005, leaving nearly 60 out of the State's 66 counties eligible for Federal disaster aid. Many family farmers and ranchers have had little reprieve from the previous year of harsh weather conditions, as blizzards and drought have already hampered the 2006 production year. On top of natural disasters, low commodity prices and skyrocketing energy costs are forcing producers to make tough decisions in order to keep their operations afloat. I believe we can do more to help ease the burdens that our producers bear, and I want to draw the Senate's attention to a handful of South Dakota counties devastated by natural disaster in 2005 and into 2006.

In 2005, 59 South Dakota counties were included in Presidential or Secretarial emergency declarations as either primary or contiguous disaster counties. These counties experienced natural disasters such as drought, high winds, extreme heat, flash flooding, hail, prairie fires, spring frost, severe storms, and blizzards.

For example, 2005 marked the fourth consecutive year of experiencing drought conditions in central South Dakota, including Hand, Hughes, Hyde, Stanley, and Sully counties. Inadequate snowfall, meager spring rains, high temperatures, and desolating winds led to sparse pastures and a lack of forage crops necessary for feeding livestock. Without adequate precipitation, producers were forced to reduce the size of their livestock herds. Of the 57,500 acres planted or growing in Stanley County, losses ranged from 35 to 70 percent. In Sully County, 50 to 70 percent of 280,075 acres planted or growing were lost due to drought conditions. Hyde County's corn, soybean, and sunflower crops experienced yield losses ranging from 50 to 80 percent.

In southern South Dakota, Charles Mix County experienced much of the same drought conditions. While drought typically wreaks havoc on an area over an extended period of time, one day of particularly extreme temperatures and strong winds on top of severe drought can devastate already struggling crops. On July 23, 2005, the temperature reached 114 degrees Fahrenheit with 45-mile-per-hour winds. These conditions led to a 60 percent loss of corn yields, 50 percent loss of soybean yields, and 30 to 35 percent of yield losses in sorghum, alfalfa, mixed forage, and grass. Neighboring county, Hutchinson County, experienced 100 percent loss of prevented corn and soybean yields and 50 percent loss of corn and soybean yields.

We are now in the middle of the 2006 production season and Farm Service Agencies, FSA, in parts of the State report conditions edging toward severe drought and fear that without adequate precipitation soon, many counties will be faced yet again with another difficult year of production. Livestock producers are increasing supplemental feeding early this year due to poor pasture conditions and lack of water in dams and dugouts. Farmers are left with very little to work with, as both the topsoil and subsoil lack the necessary moisture to produce operation-sustaining crops. This cycle of drought conditions has created a new element of synergism in the agriculture industry, compounding year upon year of devastating effects not only on producers' pocketbooks, on livestock and land conditions.

Campbell County, in north-central South Dakota, is one among many counties experiencing drought again this year. Entering into its fourth year of drought conditions, with only 1.54 inches of rainfall to date for 2006, Campbell County is currently 63 percent below the normal precipitation for the area. Today, many water sources are dry due to below normal snowfall during the winter months yielding no runoff, and below normal rainfall this spring. In addition to drought, frost has forced producers to shorten grazing time on native pastures and native and tame greases.

In central South Dakota, drought is rearing its ugly head for the fourth and fifth consecutive years. Hand County is experiencing yet another extremely dry year, with approximately 330 livestock producers affected and an estimated $210,000 needed in Emergency Conservation Program, ECP, funds to correct the damage. In Lyman County, winter and spring wheat yields will likely yield zero to 40 percent of normal. Row crops, which were planted into dry ground, are not germinating and will likely fail unless adequate precipitation is received soon. While most livestock producers in these areas have not liquidated as of yet, should these conditions persist, they will be forced to sell their entire herd.

On the opposite end of the spectrum is Clay County, which experienced a series of heavy rains, flooding, hail, and frost in 2005. Much of the alfalfa affected by the excessive rain incurred a significant quality loss, because most of the first cutting was not able to be marketed as dairy-quality hay. The majority of producers affected suffered a 20 to 40 percent of yield losses, while 100 to 125 producers experienced greater than 30 percent in losses. Of those with greater loss, some producers received assistance from the FSA Farm Loan Division in order to keep their farm in operation.

Counties throughout the State have also been impacted by frost or freezing temperatures. Haakon County, in western South Dakota, had frost hit winter wheat and alfalfa crops in March of 2005, only to experience freezing temperatures two months later. Eighty percent of yield losses affected the 15,800 acres of alfalfa and 10 to 20 percent of winter wheat yields were lost. Among other counties affected by frost or freezing temperatures were Brown, Gregory, McPherson, Hyde, Potter, Brookings, Perkins, Clay, and Sully.

Dealing with winter storms is certainly not new to South Dakotans. However, from time to time the combination of unusually high winds, freezing rain, and large snow accumulation results in the temporary paralysis of communities and agriculture operations. Not only did severe winter weather in 2005 and the spring of 2006 take a toll on livestock, but many producers were without electricity for days and even weeks. Producers' pocketbooks took an extra hit because of the high fuel costs it took to run generators around the clock.

From November 27 through November 29, 2005, severe winter storms swept through much of eastern South Dakota. President Bush declared 42 primary and contiguous counties as emergency designations. In Hamlin and Deuel Counties, 30 percent of producers' alfalfa and winter wheat were lost in that particular blizzard.

Western South Dakota was hit with severe blizzard conditions on April 18 and 19, 2006, dropping as much as 24 inches of snow. Harding, Meade, Haakon, and Butte counties were among those hardest hit by the spring blizzard, with the total estimate of livestock losses at approximately 11,732. Harding County experienced the worst losses. According to the Harding County FSA office, 60 of the 300 producers contacted reported losses totaling 2,500 cows and calves and 6,000 sheep. For one producer in northwest Harding County, about one-third of his herd died when between 450 and 500 of his sheep piled up against a fence and suffocated. Butte County also sustained significant losses to their livestock herd.

I briefly described the agricultural conditions South Dakota's family farmers and ranchers have faced over the last year and a half. The counties I described are merely a snapshot of the reality that our producers experience following a natural disaster. In some cases, disasters are limited to portions of one county, while other disasters span large parts of the state, affecting all producers.

Every farmer or rancher knows that each production year is a gamble with Mother Nature. Unfortunately, all too often most producers at some point lose this gamble and suffer the devastating effects of a natural disaster. I understand the financial and emotional hardships that this places on many family operations' struggle to survive. Because agriculture is the driving force behind South Dakota's economy, it is crucial that producers receive the resources necessary to recover from their losses.

In response to the many natural disasters that producers throughout the country have suffered, Senator KENT CONRAD and I introduced the Emergency Agricultural Disaster Assistance Act of 2006 on March 16, 2006. Our relief package would provide emergency production loss and economic assistance to agricultural producers for losses sustained during the 2005 production year. Assistance for crop production losses, livestock assistance, supplemental nutrition, and economic disaster assistance to aid with rapidly-increasing production input costs are included in our bill. In addition, a number of provisions in the bill address agricultural recovery in the areas affected by Hurricane Katrina.

Senators KENT CONRAD, BYRON DORGAN and I worked to fold our standalone bill into the larger spending bill, the Emergency Supplemental Appropriations Act, H.R. 4939. On May 4, 2006, the Senate passed the $109 billion emergency funding package, of which $3.9 billion would be used for agriculture disaster relief. As a negotiator in the conference consideration of the bill, I fought to secure meaningful disaster aid for producers. However, House leadership demonstrated their priorities, leaving America's family farmers and ranchers out to dry yet again. The conference report that was presented to the committee contained only money for Hurricane Katrina-related agriculture disaster—not a penny was included to provide relief for the flooding and drought conditions that have plagued so many of our producers in 2005.

While this administration insists that the 2005 crop year was outstanding, if not a record-breaking year, the disaster situations I just described indicate otherwise. This agreement was a raw deal for our producers and a raw deal for our rural communities.

FEDERAL INTEROPERABLE COMMUNICATIONS AND SAFETY ACT

Mrs. CLINTON. Despite the fact that there has been progress on the issue of interoperability, such as the transfer of much needed spectrum for first responder communications and the allocation of $1 billion for interoperability grants that passed last year, it is clear that incidents like Hurricane Katrina demonstrate that there remains more work to be done.

What I am concerned about is that 5 years after 9/11, I do not believe that there has been the leadership role at the Federal level to give this issue the full attention and high profile that it demands.

I believe we need an office at DHS that will be charged with continually analyzing, continually assessing, and continually thinking about how to coordinate not only the Federal agencies that manage and operate communications systems, but the local and State governments, who often have very different ideas of what interoperability means.

Additionally, we also need to give that office the resources and authority it needs to carry out its mission.

We have ostensibly given the leadership role of one of the most critical issues to emerge from 9/11 and Katrina to the SAFECOM Office within DHS. However, it is my understanding that this office has fewer than 10 full-time employees and for all intents and purposes is buried within the DHS bureaucracy. While I understand that this office is headed and staffed by dedicated professionals, how do we provide the Federal leadership necessary with fewer than 10 people?

SAFECOM, according to its own Director, needs more authority in funding decisions and its interactions with other agencies.

We have got to get serious about this matter, and I believe that legislation I have recently introduced, S. 3172, the Federal Interoperable Communications Act of 2006, takes us a step in that direction and I would like to thank Senators SALAZAR and DURBIN for cosponsoring my legislation.

My bill is not radical in how it is put together nor does it espouse to have the latest technology that will solve the interoperability problem once and for all. But it does put forth a blueprint in how the Federal Government can utilize all of the assets at its disposal and ensure that there is clear accountability and leadership on this issue at the Federal level.

It creates an interoperability czar who would report directly to the Secretary of Homeland Security. It also puts that czar in charge of a central interoperability office and gives it a clear mission, outlines responsibilities and expectations, and allows it to get the resources it would need to carry out its mission.

It requires the development of a national strategy, which would include an inventory that identifies the channels and frequencies used in every Federal agency and keeps track of what is being used by the State and local officials, so that when first responders from the Federal Government or other jurisdictions respond to an incident, they will know what frequencies and radios are being used.

This strategy sets clear benchmarks to ensure that we are constantly evaluating our capabilities and adjusting our strategies accordingly to changes in threats, advancements in technology and other factors.

My bill would also help ensure that the money that we are spending now on interoperability grants is being spent wisely and efficiently by ensuring that the grant guidelines are consistent with the goals and mission of the Office of Emergency Communication and that grant recipients have submitted a statewide interoperability plan or have adopted national consensus standards of how their platforms will work.

There have been dozens of first responders, emergency support providers, and Federal, State, and local officials who have testified before Congress, where they have cited the need for consistency in Federal grant guidelines and clarity in the DHS mission for a national emergency communications plan, and my bill seeks to address those concerns.

My bill also will help ensure that there is always an open line of communication between the State and local governments, the private sector, and the Interoperability Czar by creating regional working groups that include virtually every entity with an interest in communications policy that can report the specific needs and progress in a region.

Finally, the bill also creates an Emergency Communications Preparedness Center which will be a consortium of all the Federal agencies that have

focused on interoperable communications, namely the FCC, DHS, Commerce, DOD, and the Justice Department. I envision that this would be the Federal clearinghouse which would help ensure that these agencies which have access to the latest technologies and innovative strategies in interoperable communications can share and coordinate that information and technology to the benefit of the State and local agencies they work with.

I also have provisions that will help facilitate the creation of a national and interoperable alert warning system.

Basically, this bill boils down to providing the leadership needed at the top level to ensure that the technologies, best practices, and resources are flowing to the men and women on the ground.

One of the key recommendations of the 9/11 Commission was to deploy interoperable communications for all of our Nation's first responders. Indeed, this is an enormous, difficult, and complicated task, which requires and demands the immediate and coordinated attention of our Federal Government. My legislation will help ensure that this critical issue gets the attention that it deserves.

ADDITIONAL STATEMENTS

HONORING TERRENCE J. LEARY

● Mr. CHAFEE. Mr. President, I am pleased to pay tribute to Terrence J. Leary, who has served as president and CEO of the Harmony Hill School in Glocester, RI, for the last 29 years. In all, he has worked at Harmony Hill for 40 years having begun his career as a teacher and then serving as education director under the school's founders, Edward and Laura Spring.

Terry has built upon the legacy of the Springs and led Harmony Hill to national status with a program providing an environment in which at-risk youth can prosper. In January 2000, Terry received the National Association of Private Schools for Exceptional Children's Executive of the Year Award for his outstanding contributions to private special education.

Terry Leary has served on many civic and charitable boards, including the Rhode Island Council for Exceptional Children, Big Brothers of Rhode Island, and the Lions Club of Smithfield, RI.

Terry's wife, Linda Leary, is a special education teacher in Lincoln, RI, and they have a daughter, Kara, a student at Gallaher Middle School in Smithfield.

Mr. President, Terry Leary's compassionate leadership at the Harmony Hill School is an inspiration for all who work in the field of education, and I ask unanimous consent that his achievement be recognized at an appropriate place in the RECORD.●

100TH ANNIVERSARY OF MAX, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I rise today to recognize a community in North Dakota that will be celebrating its 100th anniversary. On June 30–July 2, the residents of Max will gather to celebrate their community's history and founding.

The community of Max began its century in the heartland on August 8, 1906, when it was platted by J.G. Sheldrick. The town gained its unusual name because when people would come to the post office, a shaver named Max would jokingly ask if they were coming to his post office. The name Max's Post Office stuck and was later transferred to the town.

Max prides itself on community involvement. The Community Enterprises, a group that invests in and sustains local businesses, has helped keep this small town vibrant. The annual ''Great Plunge'' is an example of the lively, fun-loving spirit in Max. In this event, the community places a large Dr. Pepper can on an ice-covered pond. Tickets are sold with the day and time the ice will melt, causing the can to fall into the pond.

The community has planned a wonderful weekend celebration to commemorate its 100th anniversary. Events include a street dance, children's activities, skits, presentations and fireworks.

I ask the Senate to join me in congratulating Max, ND, and its residents on their first 100 years and in wishing them well through the next century. By honoring Max and all the other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Max that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Max has a proud past and a bright future.●

100TH ANNIVERSARY OF HANNAFORD, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I rise today to recognize a community in North Dakota that will be celebrating its 100th anniversary. On June 30–July 1, the residents of Hannaford will gather to celebrate their community's history and founding.

Hannaford is a Community of Progress and Proud Heritage, located in the heart of east-central North Dakota. Since the day of its founding by Jules M. Hannaford the community has been small but very active.

Hannaford has plenty to offer its residents and visitors. There is always something to do, from visiting the park, to bowling, hunting, and playing around at the baseball complex.

The community has planned a wonderful weekend celebration to commemorate its 100th anniversary. The celebration preparation includes a bingo fundraiser, a 2002 Centennial Historical Book sale, and a cookbook sale. The money raised will be used for the celebration festivities.

I ask the Senate to join me in congratulating Hannaford, ND, and its residents on their first 100 years and in wishing them well through the next century. By honoring Hannaford and all the other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Hannaford that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Hannaford has a proud past and a bright future.●

HONORING RAY DOOLEY

● Mr. KERRY. Mr. President, earlier this year Boston lost a legendary political organizer, Mr. Ray Dooley, whose passion and intelligence lifted Massachusetts and everyone who worked with him. I ask unanimous consent that the remarks I delivered at his memorial service be printed in the RECORD:

The information follows.

Anne, Catroina, Conor, and Brian, in the time since your husband and father was taken from all of us, but especially was taken too soon from you who loved him best and needed him most, people across Massachusetts and Ireland have rightfully remembered Ray's social conscience, his decency, his strength, his wisdom, and his judgment.

Each of these qualities of character ought to be especially celebrated because they are as suddenly rare in public life as they were abundant in Ray Dooley.

But they don't tell us the something about Ray which brought so many of us in this room together time and again, from movements to end an unjust war, to the march for civil rights, to Ray Flynn and City Hall, to hard fought, bare knuckled Senate races in 1984 and 1996 in which Ray took center stage. I know better than anyone that they wouldn't have ended in victory without him.

Ray lived out what Winston Churchill's political right hand R.A. Butler knew: ''Politics is largely a matter of heart.''

But more than that even, Ray Dooley taught a generation of politicians and political organizers that idealists could be tough as nails—and that there was nobility in fighting your heart out on the political field. He shattered anyone's illusion that liberals were fuzzy headed bleeding hearts out of the Ivy Tower who floated above the fray. Ray was never defensive about being 'in politics'—he was proud of it, he wore his passion for the game on his sleeve. He was gutsy, determined, and in the finest sense of the phrase, a true believer. Ray showed us all how to win a campaign and keep your conscience.

Harry Truman, who rose through the ranks came of age of Kansas City's

Pendergast machine, was once asked if he minded being referred to all his life as a 'politician' while others were called 'statesman.' Truman laughed and said 'they only call you a statesman when you're gone.'

I have no doubt Ray would prefer to be remembered as a political organizer—for he was one of the best and he gave his talent not only for his candidates—and what a difference he made for us—but for the common good. And what a difference that made for our city, our state, and our country.

Ray had steadiness, toughness, and a willingness to ruffle feathers—along with the force of character to tell candidates when they're wrong. More than once he said to me: ''John, cut the b.s.'' Ray, I hope I've finally learned.

He knew that in politics you can't make everyone happy and he saw those on the other side as opponents, but never enemies. He fiercely wanted to defeat them, but never to destroy them.

He also had grit, and an instinct for when to tell a loud mouth to pipe down, finally giving a reluctant activist at the end of the table the confidence to speak up—and speak out. It was leadership, the art of politics at its best; he was a man who lived for others.

No, Ray was never afraid to be 'in politics' because he knew it was politics that got things done for the people whose cares were his cause—for the poor who lacked decent housing, for a city divided over race, for women and gays and lesbians who only ask for the freedom to be who they are, for workers who deserve decent wages, and, in Ireland, for children whose rights and dignity had to be respected.

It wasn't cheering things on as they were that made the progress Ray demanded, it wasn't high fallutin words that got these things done, it was politics—it was deal-making—it was Ray Dooley and the language was Dooley-speak.

Ray was a kind of quiet Pied Piper not unlike our old friend Michael Ventresca. He loved underdogs. Tom Gallagher wasn't supposed to win, but Ray proved the wise-guys wrong. Ray Flynn wasn't supposed to win, but Dooley proved them wrong again. And I wasn't supposed to win—but Ray believed, and I'm glad that together we proved him right. And in all these underdog fights, he loved being an odd couple political matchmaker. It was Dooley and the best kind of politics in 1983 and 1984 that surprised many and puzzled some when he helped to bring Ray Flynn and me together. It was Dooley who made it possible for Susan Tracy to stand at the Jackson Mann School on primary day 1984 when Ray's first victorious candidate Tom Gallagher came to my aid. It was Ray who knew what it would mean to have a red ink stamp on all the Kerry lit that read ''endorsed by Rep. Tom Gallagher.'' That was Ray Dooley. It was the same Dooley style politics that showed up in Iowa in 2004—when suddenly local reporters starting hearing about nuns phonebanking voters in Dubuque as part of Catholics for Kerry. I don't envy the Bush supporter on the receiving end of that phone call!

That's how Ray Dooley won grassroots races: one house, one block, and one precinct at a time. In an era when the art of politics is abused by some in the profession and cynically dismissed by some in the press, it's important to remember—Ray showed how to do it right and for the right reasons.

Ray lived up to the words of John Kennedy—that politics is an ''honorable profession.'' To Ray it was the worthiest of endeavors, a joyful profession. And through all the turbulence and temptations, he was always above all something he prized in others—a man of honor.

But Ray wasn't just an individual force; he leaves behind an army he enlisted to carry on his mission. He built a farm team of political professionals who have become All Stars while staying true to progressive causes. They carry a whole lot of Ray with them in the hopes and energy that fuels the work of Mary Beth Cahill, Patty Foley, Michael Whouley, Joe Newman, Kevin Honan, Susan Tracy, Marie Turley, Howard Leibovitz, and John Giesser. Anne, Catroina, Conor, and Brian miss Ray in a way beyond measure; but his political family here in America also misses a friend, a mentor, a surrogate father and adopted brother.

With his humor, his doggedness, and his rare qualities of insight, Ray fought and won great political battles. Campaign manager, chief strategist, conscience—he was all this and more in politics. And he was every bit as talented, committed, and resourceful in searching out treatments for his illness while always thinking about how medical science could help improve treatment for future cancer patients. He saved his hardest fight for the race in which he was the ultimate underdog. With humor, he laughed at his own mortality, sustaining those around him. Others might have reasonably given up, but not Ray. Why give in to the long odds of beating a tough cancer when long odds had never stopped him before? Knocked on his ass, Ray Dooley dusted himself off and kept punching. And each of us could learn a lot from that too.

So: our friend Ray was many things: an activist, a shameless idealist, an unapologetic progressive, a self-proclaimed liberal, a humanitarian, and a globalist in the best sense of the word. But it would be a mistake if his passing from man to unforgettable memory made any of us forget that Anne's husband, the father of Catroina, Conor, and Brian, was also the tough, go-to, level-headed, street-smart strategic leader who lived and breathed politics in this proudly political city—and in Dooley-speak, he was damned good at it.

Ray, we gather here now one last time as your legion of lifelong friends. Tomorrow and tomorrow, we will miss—you and so will the world, for the injustices you would've righted, the hurts you would have healed, and the great clashes that would've summoned you to arms. Your legacy is a generation that loves politics as much as you did and fights with the same heart, conviction, and passion that are your undying gift to us, your political family. You are buried in your beloved Ireland, but for years to come your soul will be with us here in that other Irish place you loved, the city of Boston.●

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

TRIBUTE TO ROBERT EDWARD HOLROYD

● Mr. ROCKEFELLER. Mr. President, I wish to commemorate a man who has made a significant impact on the State of West Virginia and on his community—Robert Edward Holroyd is not only a dear friend of mine, but the work he has done for our State has been beyond extraordinary. Bob and I have been friends for a very long time and in addition to being a wonderful friend, he is also a counselor, and someone on whom I often rely for advice and wisdom.

Holroyd has been active in improving the medical practices for the State of West Virginia. He was one of the organizers of Princeton Community Hospital, where he served on the board until he became general counsel of the hospital, a position he continues to hold. Also, he is presently the chair of St. Luke's Hospital in Bluefield, WV and serves as chairman of the Mercer County 911 committee.

In 1981, Holroyd played a significant role in the opening of the Princeton Health Care Center nursing home, which is celebrating its 25th anniversary on June 16, 2006. Princeton Community Hospital opened as a general hospital on December 20, 1970, and was chartered as a nonprofit organization with its own board of directors to establish and plan for future health care centers. Since its inception, and thanks to those like Holroyd, the hospital staff has grown from 13 physicians and 125 employees to more than 100 doctors and 1,140 employees today as it celebrates this milestone. With the addition of new equipment, the adoption of new concepts in health care delivery, and the expansion of the facility, the hospital's well-trained and highly motivated professionals are able to provide quality health care services for the citizens of Mercer and surrounding counties. The hospital's many specialties and technological advancements place it on the leading edge of medical treatment in southern West Virginia.

Mr. Holroyd was born to the late Virginia Lazenby and the late Dr. Frank Jackson Holroyd on September 15, 1931, in Princeton, Mercer County, WV. Beginning in his youth in Mercer County,

Holroyd was a natural born leader, already making an impact in his community. He was active in the First Baptist Church in Princeton, WV as well as the Boy Scouts of America, Troop 1, in which he attained the rank of Eagle Scout. While at Princeton High School, Holroyd was a member of the nationally ranked Princeton High 1948–49 debate team. As a result of his successes early in life, Holroyd received a 4-year scholarship to West Virginia University.

At West Virginia University, he majored in political science and speech. During his tenure at the University, Holroyd left Morgantown and joined the United States Marine Corps during the Korean Conflict. Holroyd served on active duty for 3 years and served with special assignments to military police. In 1954, Holroyd became a Marine reservist and returned to Morgantown, WV to finish his undergraduate studies, and pursue law school. He graduated with a law degree in 1958 and returned home to Princeton, WV, to practice law.

Holroyd's interest in politics blossomed after law school, and in 1960, he became very active in President John F. Kennedy's primary campaign in southern West Virginia. In Princeton, Holroyd was assistant prosecuting attorney from 1961–1964. In 1964, he was elected to the West Virginia House of Delegates and served as prosecuting attorney of Mercer County from 1965–1967. Besides working on President Kennedy's campaign, Holroyd continued supporting the Democratic Party by serving on the West Virginia State Democratic Executive Committee for two terms, as well as being a delegate to the Democratic National Convention in 1976.

Holroyd served West Virginia as a consultant to the Governor's Committee on Crime and Delinquency and Correction and the International Association of Chiefs of Police. He was also an instructor on Criminal Law and Procedure at West Virginia State Police Academy and West Virginia Basic Police Science Courses at Institute, WV. Holroyd also served the Police force by being a guest instructor at Bluefield State College, Police Service Department and as an adjunct professor at Marshall University.

Throughout his community, Holroyd was a past member and officer in Princeton's Junior Chamber of Commerce. He was an active member in the Princeton Rotary Club, and is a current member of the Veterans of Foreign Wars—VFW, American Legion, Elks, Moose, Mercer County and West Virginia's State Bar Associations.

Husband to Emilie Norwood Adams, father to Elizabeth, William and Mary Jacqueline Holroyd, and grandfather to four, Holroyd has served his family, his State, and his country. West Virginia is proud and honored to say he represents the State, and I am proud and honored to say he is a dear friend. West Virginia thanks him for his extraordinary service and for his leadership some 25 years ago that make this anniversary possible for the Princeton Health Care Center nursing home.●

100TH ANNIVERSARY OF LEMMON, SOUTH DAKOTA

● Mr. THUNE. Mr. President, today I rise to recognize Lemmon, SD. The town of Lemmon will celebrate the 100th anniversary of its founding this year.

Located in Perkins County, Lemmon was founded when the Milwaukee railroad extended its line toward the West. It officially became a town on May 16, 1906, founded by George Edward Lemmon.

I would like to offer my congratulations to Lemmon on their anniversary and I wish them continued prosperity in the years to come.●

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:59 a.m., a message from the House of Representatives, delivered by Ms. Chiappardi, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 193. An act to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language.

The enrolled bill was subsequently signed by the President pro tempore (Mr. STEVENS).

At 12:20 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5254. An act to set schedules for the consideration of permits for refineries.

ENROLLED BILL SIGNED

At 1:11 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 2803. An act to amend the Federal Mine Safety and Health Act of 1977 to improve the safety of mines and mining.

The enrolled bill was subsequently signed by the President pro tempore (Mr. STEVENS).

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 5254. An act to set schedules for the consideration of permits for refineries; to the Committee on Energy and Natural Resources.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, June 8, 2006, she had presented to the President of the United States the following enrolled bills:

S. 193. An act to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language.

S. 2803. An act to amend the Federal Mine Safety and Health Act of 1977 to improve the safety of mines and mining.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–7026. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics) transmitting, pursuant to law, a report from the Counterproliferation Program Review Committee entitled ''Report on Activities and Programs for Countering Proliferation and NBC Terrorism''; to the Committee on Armed Services.

EC–7027. A communication from General Counsel of the Department of Defense, transmitting, a report of legislative proposals as part of the National Defense Authorization Bill for Fiscal Year 2007; to the Committee on Armed Services.

EC–7028. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to the restructured Global Hawk program; to the Committee on Armed Services.

EC–7029. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to restructuring the National Polar-orbiting Operational Environmental Satellite System (NPOESS) program; to the Committee on Armed Services.

EC–7030. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Quality Assurance'' (DFARS Case 2003–D027) received on May 31, 2006; to the Committee on Armed Services.

EC–7031. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Contract Termination'' (DFARS Case 2003–D046) received on May 31, 2006; to the Committee on Armed Services.

EC–7032. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Authorization for Continued Contracts'' (DFARS Case 2003–D052) received on May 31, 2006; to the Committee on Armed Services.

EC–7033. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Basic Agreements for Telecommunications Services'' (DFARS Case 2003–D056) received on May 31, 2006; to the Committee on Armed Services.

EC–7034. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Describing Agency Needs'' (DFARS Case 2003–D073) received on May 31, 2006; to the Committee on Armed Services.

EC–7035. A communication from the Director, Defense Procurement and Acquisition

Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Special Contracting Methods'' (DFARS Case 2003–D079) received on May 31, 2006; to the Committee on Armed Services.

EC–7036. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 06–114—06–124); to the Committee on Foreign Relations.

EC–7037. A communication from the Acting Administrator, U.S. Agency for International Development, transmitting, reports relative to a series of studies on the ''Muslim World''; to the Committee on Foreign Relations.

EC–7038. A communication from the Acting U.S. Global AIDS Coordinator, Department of State, transmitting, pursuant to law, a report relative to the 13th Board meeting of the Global Fund to Fight AIDS, Tuberculosis and Malaria held in Geneva, Switzerland, from April 27–28, 2006; to the Committee on Foreign Relations.

EC–7039. A communication from the Acting U.S. Global AIDS Coordinator, Department of State, transmitting, pursuant to law, a report on the President's Emergency Plan for AIDS Relief—Bringing Hope: Supplying Antiretroviral Drugs for HIV/AIDS Treatment; to the Committee on Foreign Relations.

EC–7040. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report providing information on steps taken by the U.S. Government to bring about an end to the Arab League boycott of Israel and to expand the process of normalization between Israel and the Arab League countries; to the Committee on Foreign Relations.

EC–7041. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of $50,000,000 or more to Israel; to the Committee on Foreign Relations.

EC–7042. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification regarding the proposed transfer of major defense equipment valued (in terms of its original cost) at $14,000,000 or more from the Government of the Netherlands to the Government of the United Arab Emirates; to the Committee on Foreign Relations.

EC–7043. A communication from the Commissioner, Social Security Administration, transmitting, pursuant to law, the 2006 Annual Report of the Supplemental Security Income Program; to the Committee on Finance.

EC–7044. A communication from the Inspector General, Department of Health and Human Services, transmitting, pursuant to law, a report entitled ''Determining Average Manufacturer Prices for Prescription Drugs Under the Deficit Reduction Act of 2005; to the Committee on Finance.

EC–7045. A communication from the Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Rules for Helping Blind and Disabled Individuals Achieve Self-Support'' (RIN0960–AG00) received on May 31, 2006; to the Committee on Finance.

EC–7046. A communication from the Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Extension of the Expiration Date for the Digestive Listings'' (RIN0960–AG39) received on May 31, 2006; to the Committee on Finance.

EC–7047. A communication from the Chief, Trade and Commercial Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Single Entry for Unassembled or Disassembled Entities Imported on Multiple Conveyances'' (RIN1505–AB34) received on May 31, 2006; to the Committee on Finance.

EC–7048. A communication from the Director, Regulatory Management Division, Office of Executive Secretariat, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes to the Procedures for Notifying the Public of Premium Processing Service Designations and Availability'' (RIN1615–AB40) received on May 31, 2006; to the Committee on Finance.

EC–7049. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; State Health Insurance Assistance Program'' (RIN 0938–AJ67) received on May 31, 2006; to the Committee on Finance.

EC–7050. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare and Medicaid Programs; Conditions for Coverage for Organ Procurement Organizations (OPOs)'' (RIN 0938–AK81) received on May 31, 2006; to the Committee on Finance.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. SPECTER for the Committee on the Judiciary.

Andrew J. Guilford, of California, to be United States District Judge for the Central District of California.

Charles P. Rosenberg, of Virginia, to be United States Attorney for the Eastern District of Virginia for the term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BROWNBACK:

S. 3477. A bill to suspend temporarily the duty on certain athletic footwear valued at not over $2.50; to the Committee on Finance.

By Mr. BOND (for himself and Mr. TALENT):

S. 3478. A bill to amend the National Trails System Act relating to the statute of limitations that applies to certain claims; to the Committee on Energy and Natural Resources.

By Mr. BROWNBACK:

S. 3479. A bill to suspend temporarily the duty on numerous other seals made of rubber or silicone, and covered with, or reinforced with, a fabric material; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mr. COLEMAN):

S. 3480. A bill to prevent abuse of Government credit cards; to the Committee on Homeland Security and Governmental Affairs.

By Mr. THUNE:

S. 3481. A bill to require the Government Accountability Office to submit a report to Congress on the compliance of the Postal Service with procedural requirements in the closing of the postal sorting facility in Aberdeen, South Dakota, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. HARKIN (for himself and Mrs. CLINTON):

S. 3482. A bill to provide for the establishment of a volunteer corps to aid in the dissemination and distribution of vaccines and other countermeasures during a public health emergency; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ENSIGN (for himself and Mr. LIEBERMAN):

S. 3483. A bill to improve national competitiveness through enhanced education initiatives; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HARKIN (for himself and Ms. CANTWELL):

S. 3484. A bill to amend the Federal Food, Drug, and Cosmetic Act to extend the food labeling requirements of the Nutrition Labeling and Education Act of 1990 to enable customers to make informed choices about the nutritional content of standard menu items in large chain restaurants; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DORGAN:

S. 3485. A bill to amend the Tariff Act of 1930 to prohibit the import, export, and sale of goods made with sweatshop labor, and for other purposes; to the Committee on Finance.

By Mr. REID (for Mr. ROCKEFELLER (for himself, Mr. JEFFORDS, Mr. BAUCUS, Mr. LEAHY, and Ms. STABENOW)):

S. 3486. A bill to protect the privacy of veterans, spouses of veterans, and other persons affected by the security breach at the Department of Veterans Affairs on May 3, 2006, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KERRY (for himself and Mr. PRYOR):

S. 3487. A bill to amend the Small Business Act to reauthorize and improve the disaster loan program, and for other purposes; to the Committee on Small Business and Entrepreneurship.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself and Mr. REID):

S. Res. 505. A resolution authorizing the taking of a photograph in the Chamber of the United States Senate; considered and agreed to.

By Ms. STABENOW (for herself, Ms. SNOWE, Mrs. MURRAY, and Mr. LAUTENBERG):

S. Res. 506. A resolution to designate the period beginning on June 5, 2006, and ending on June 8, 2006, as ''National Health IT Week''; considered and agreed to.

By Mr. BROWNBACK (for himself, Mr. LIEBERMAN, Mr. ALLEN, Ms. COLLINS, Mr. FRIST, Ms. MIKULSKI, Mr. PRYOR, Mr. SANTORUM, Mr. SMITH, Mrs. CLINTON, Mr. REID, Mrs. DOLE, and Mr. INHOFE):

S. Con. Res. 98. A concurrent resolution commemorating the 39th anniversary of the reunification of the city of Jerusalem; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 602

At the request of Ms. MIKULSKI, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 602, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. 707

At the request of Mr. ALEXANDER, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 707, a bill to reduce preterm labor and delivery and the risk of pregnancy-related deaths and complications due to pregnancy, and to reduce infant mortality caused by prematurity.

S. 843

At the request of Mr. SANTORUM, the names of the Senator from Florida (Mr. NELSON) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 843, a bill to amend the Public Health Service Act to combat autism through research, screening, intervention and education.

S. 1112

At the request of Mr. GRASSLEY, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 1112, a bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001.

S. 1330

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1330, a bill to amend the Internal Revenue Code of 1986 to provide incentives for employer-provided employee housing assistance, and for other purposes.

S. 1353

At the request of Mr. REID, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1353, a bill to amend the Public Health Service Act to provide for the establishment of an Amyotrophic Lateral Sclerosis Registry.

S. 1522

At the request of Mr. CHAMBLISS, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1522, a bill to recognize the heritage of hunting and provide opportunities for continued hunting on Federal public land.

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 1522, supra.

S. 1537

At the request of Mr. AKAKA, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1537, a bill to amend title 38, United States Code, to provide for the establishment of Parkinson's Disease Research Education and Clinical Centers in the Veterans Health Administration of the Department of Veterans Affairs and Multiple Sclerosis Centers of Excellence.

S. 1575

At the request of Mr. BINGAMAN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1575, a bill to amend the Public Health Service Act to authorize a demonstration program to increase the number of doctorally-prepared nurse faculty.

S. 1687

At the request of Ms. MIKULSKI, the names of the Senator from New York (Mrs. CLINTON), the Senator from California (Mrs. BOXER) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 1687, a bill to amend the Public Health Service Act to provide waivers relating to grants for preventive health measures with respect to breast and cervical cancers.

S. 1691

At the request of Mr. CRAIG, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1691, a bill to amend selected statutes to clarify existing Federal law as to the treatment of students privately educated at home under State law.

S. 1741

At the request of Mr. VOINOVICH, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 1741, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize the President to carry out a program for the protection of the health and safety of residents, workers, volunteers, and others in a disaster area.

S. 1923

At the request of Ms. SNOWE, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 1923, a bill to address small business investment companies licensed to issue participating debentures, and for other purposes.

S. 2140

At the request of Mr. HATCH, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Florida (Mr. MARTINEZ) were added as cosponsors of S. 2140, a bill to enhance protection of children from sexual exploitation by strengthening section 2257 of title 18, United States Code, requiring producers of sexually explicit material to keep and permit inspection of records regarding the age of performers, and for other purposes.

S. 2243

At the request of Mr. MENENDEZ, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2243, a bill to make college more affordable by expanding and enhancing financial aid options for students and their families and providing loan forgiveness opportunities for public service employees, and for other purposes.

S. 2393

At the request of Mr. COLEMAN, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 2393, a bill to amend the Public Health Service Act to advance medical research and treatments into pediatric cancers, ensure patients and families have access to the current treatments and information regarding pediatric cancers, establish a population-based national childhood cancer database, and promote public awareness of pediatric cancers.

S. 2416

At the request of Mr. BURNS, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 2416, a bill to amend title 38, United States Code, to expand the scope of programs of education for which accelerated payments of educational assistance under the Montgomery GI Bill may be used, and for other purposes.

S. 2435

At the request of Mr. LUGAR, the names of the Senator from Ohio (Mr. DEWINE), the Senator from North Dakota (Mr. DORGAN) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 2435, a bill to increase cooperation on energy issues between the United States Government and foreign governments and entities in order to secure the strategic and economic interests of the United States, and for other purposes.

S. 2461

At the request of Mr. SANTORUM, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2461, a bill to prohibit United States assistance to develop or promote any rail connections or railway-related connections that traverse or connect Baku, Azerbaijan, Tbilisi, Georgia, and Kars, Turkey, and that specifically exclude cities in Armenia.

S. 2467

At the request of Mr. GRASSLEY, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 2467, a bill to enhance and improve the trade relations of the United States by strengthening United States trade enforcement efforts and encouraging United States trading partners to adhere to the rules and norms of international trade, and for other purposes.

S. 2503

At the request of Mrs. LINCOLN, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2503, a bill to amend the Internal Revenue Code of 1986 to provide for an extension of the period of limitation to file claims for refunds on account of disability determinations by the Department of Veterans Affairs.

S. 2566

At the request of Mr. LUGAR, the names of the Senator from Oregon (Mr.

SMITH), the Senator from South Carolina (Mr. GRAHAM) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 2566, a bill to provide for coordination of proliferation interdiction activities and conventional arms disarmament, and for other purposes.

S. 2592

At the request of Mr. HARKIN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2592, a bill to amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren by updating the definition of ''food of minimal nutritional value'' to conform to current nutrition science and to protect the Federal investment in the national school lunch and breakfast programs.

S. 2599

At the request of Mr. VITTER, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 2599, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to prohibit the confiscation of firearms during certain national emergencies.

S. 2629

At the request of Mr. SCHUMER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2629, a bill to improve the tracking of stolen firearms and firearms used in a crime, to allow more frequent inspections of gun dealers to ensure compliance with Federal gun law, to enhance the penalties for gun trafficking, and for other purposes.

S. 2704

At the request of Mr. DEWINE, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 2704, a bill to revise and extend the National Police Athletic League Youth Enrichment Act of 2000.

S. 2787

At the request of Mr. CRAIG, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2787, a bill to permit United States persons to participate in the exploration for and the extraction of hydrocarbon resources from any portion of a foreign maritime exclusive economic zone that is contiguous to the exclusive economic zone of the United States, and for other purposes.

S. 2970

At the request of Mr. KERRY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2970, a bill to require the Secretary of Veterans Affairs to provide free credit monitoring and credit reports for veterans and others affected by the theft of veterans' personal data, to ensure that such persons are appropriately notified of such thefts, and for other purposes.

S. 3275

At the request of Mr. ALLEN, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 3275, a bill to amend title 18, United States Code, to provide a national standard in accordance with which nonresidents of a State may carry concealed firearms in the State.

S. CON. RES. 96

At the request of Mr. BROWNBACK, the names of the Senator from Utah (Mr. HATCH) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. Con. Res. 96, a concurrent resolution to commemorate, celebrate, and reaffirm the national motto of the United States on the 50th anniversary of its formal adoption.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

Mr. BOND (for himself and Mr. TALENT):

S. 3478. A bill to amend the National Trails System Act relating to the statute of limitations that applies to certain claims; to the Committee on Energy and Natural Resources.

Mr. BOND. Today, I and Senator JIM TALENT introduce the Easement Owners Fair Compensation Act of 2006. This bill will right a wrong done to property owners from whom the government took property without compensation. It will also ensure that future property owners are treated fairly when the government seeks to take their property through eminent domain.

In 1992, the federal government confiscated property owned by 102 St. Louis County, Missouri residents through the Federal Rails to Trails Act. The taking imposed an easement on their property for a public recreational hiking/biking trail. A trail easement was established on their property on December 20, 1992. After twelve years of bureaucratic fighting and delay, the Justice Department admitted the government's takings liability and agreed to pay the property owners $2,385,000.85 for their property, interest and legal fees.

However, two days before the U.S. Court of Claims was scheduled to approve the compensation agreement, the U.S. Federal Circuit issued the Caldwell decision regarding a rails-to-trails takings case in Georgia. That decision established the statute of limitations for rails-to-trails claims as the date of notice of interim trail use, not the date the trail easement was imposed on the property, as previously assumed. Under the new date, the statute of limitations on the St. Louis County takings claim had expired. The Justice Department accordingly sought dismissal of the claims without payment and the Court of Claims judge agreed.

This bill is a Senate companion to H.R. 4581 introduced by Representative AKIN and cosponsored by Representatives CARNAHAN and EMERSON. The legislation sets the statute of limitations as beginning on the date an interest is conveyed. It also allows for reconsideration of past claims dismissed because of this issue.

Without this bill, we will allow the wrong committed by the federal government to stand. The federal government took private property, admitted it owed the property owners over $2,000,000, and then refused to pay because of a technicality. That is no way to treat our citizens. That is no way to run a rails-to-trails program. That is no way to encourage future recreational hiking and biking. I urge my colleagues to support this legislation.

By Mr. GRASSLEY (for himself and Mr. COLEMAN):

S. 3480. A bill to prevent abuse of Government credit cards; to the Committee on Homeland Security and Government Affairs.

Mr. GRASSLEY. Mr. President, today I am reintroducing the Government Credit Card Abuse Prevention Act to address, in a comprehensive way, the abuse, misuse, and fraud that has occurred with Government charge cards. Some people might ask, ''Why are you bothering with legislation? Is it that big of a problem?'' It is true that most Government employees who are entrusted with a travel card or a purchase card do not abuse it. It may also be true that the amount of money concerned is only a fraction of any agency's annual budget. Well, when you have agencies like the Department of Defense with an over $500 billion budget, even a small fraction means a lot of taxpayers' money. When I asked GAO to look into instances of waste, fraud, and abuse with Government charge cards, starting with the Department of Defense, we found that purchase cards were used to spend taxpayer money for a sapphire ring, LA-Z-Boy reclining rocking chairs, and a dinner party for a general at Treasure Island Hotel and Casino that included $800 for alcohol. Government travel cards were used for gambling, sporting events, concerts, cruises, and even gentlemen's clubs and legalized brothels. Government travel cards are for official travel-related expenses only, not tickets to a Dallas Cowboys game or a Janet Jackson concert, but these are real examples of improper purchases GAO uncovered in reports I had requested. While travel cards are not paid directly with taxpayers' money like purchase cards, failure by employees to repay these cards results in the loss of millions of dollars in rebates to the Federal Government. Also, when credit card companies are forced to charge off bad debt, they raise interest rates and fees on everyone else.

Based on what we found in DoD, I worked with GAO to uncover similar problems in the U.S. Forest Service where one employee purchased five digital cameras at a cost of $2,960, six computers for $6,019, three palm pilots totaling $736, jewelry worth $1,967, and $6,101 in other items like cordless telephones, figurines, and Sony Playstations, all for personal use and all at taxpayer expense. GAO subsequently found similar problems at

other agencies like the Federal Aviation Administration and the Department of Housing an Urban Development. I have cited just some of the extreme examples, but there are many more instances where employees purchased items that were not needed by the agency or where a cheaper alternative would meet the purpose just as well. This occurred because of weak internal controls within the agencies and is something that clearly needs to be addressed governmentwide. Based on oversight from Congress, GAO, and agency inspectors general, the situation has improved in many agencies and I am pleased that the Office of Management and Budget has begun to bring about an improved control environment through direction contained in OMB Circular 123. However, there is more to be done and my experience has convinced me that legislation is necessary.

The Government Credit Card Abuse Prevention Act is largely based on the recommendations by GAO regarding what controls are necessary to prevent the kinds of waste, fraud, and abuse we have uncovered. Since I originally introduced this legislation in the last Congress, I have collected input and ideas and worked to refine the bill to make it both comprehensive and workable. The provisions in my bill are simply commonsense internal controls that should be present in every Federal agency to prevent improper purchases. These include: performing credit checks for travel cardholders and issuing restricted cards for those with poor or no credit to reduce the potential for misuse; maintaining a record of each cardholder, including single transaction limits and total credit limits so agencies can effectively manage their cardholders; implementing periodic reviews to determine if cardholders have a need for a card; properly recording rebates to the Government based on prompt payment; providing training for cardholders and managers; utilizing available technologies to prevent or catch fraudulent purchases; establishing specific policies about the number of cards to be issued, the credit limits for certain categories of cardholders, and categories of employees eligible to be issued cards; invalidating cards when employees leave the agency or transfer; establishing an approving official other than the purchase cardholder so employees cannot approve their own purchases; reconciling purchase card charges on the bill with receipts and supporting documentation; submitting disputed purchase card charges to the bank according to the proper procedure; making purchase card payments promptly to avoid interest penalties; retaining records of purchase card transactions in accordance with standard Government recordkeeping polices; utilizing mandatory split disbursements when reimbursing employees for travel card purchases to ensure that travel card bills get paid; comparing items submitted on travel vouchers with items already paid for with centrally billed accounts to avoid reimbursing employees for items already paid for by the agency; and submitting refund requests for unused airline tickets so the taxpayers don't pay for tickets that were not used.

My bill would also provide that each agency inspector general will periodically conduct risk assessments of agency purchase card and travel card programs and perform periodic audits to identify potential fraudulent, improper, and abusive use of cards. We have had great success working with inspectors general using techniques like data mining to reveal instances of improper use of government charge cards. Having this information on an ongoing basis will help in strengthening and maintaining a rigorous system of internal controls to prevent future instances of waste, fraud, and abuse with government charge cards. In addition, my bill requires penalties so that employees who abuse Government charge cards cannot get away scotfree. In cases of serious misuse or fraud, the bill provides that employees must be dismissed and suspected cases of fraud will also be referred to the appropriate U.S. attorney for prosecution under Federal antifraud laws. Hopefully this will send a clear message that such activity will not be tolerated so as to act as a deterrent for others.

I am proud of the oversight work that I do to uncover waste, fraud, and abuse, but sometimes I feel like Sisyphus, doomed to eternally roll a boulder up a hill only to see it fall again. Instead of eternally looking over the shoulder of agencies to find waste that should never have occurred and then poking and prodding them to close the barn door after the horse has gotten out, we need to put the internal controls in place to make sure these problems don't happen in the first place. This bill will accomplish that for the Government charge card programs so that American taxpayers can sleep soundly knowing that their money isn't being charged away by some bureaucrat. I hope my colleagues will support this commonsense measure and that it will be enacted into law in short order.

By Mr. ENSIGN (for himself and Mr. LIEBERMAN):

S. 3483. A bill to improve national competitiveness through enhanced education initiatives; to the Committee on Health, Education, Labor, and Pensions.

Mr. LIEBERMAN. Mr. President, I rise today to introduce, along with my colleague from Nevada, Senator ENSIGN, the ''National Innovation Education Act''. The intent of this bill is to enhance our science and technology talent base and improve national competitiveness through strengthened education initiatives. Enhancing academic success, particularly in the fields of science, technology, engineering and math—often called the STEM disciplines—through innovative educational programs will stimulate change and growth within elementary, secondary and postsecondary institutions, improve current educational opportunities for all students, allow graduates greater opportunity for economic success and greater ability to successfully compete in the global market.

This bill proposes initiatives spanning the education spectrum that seek to improve quality instruction and access to STEM learning for all students. Recent recommendations from the Council on Competitiveness and The Augustine Commission at the National Academy of Sciences, among others, target national concerns around the content and quality of K–16 in STEM disciplines, particularly with regard to minority and low-income students, the need to stimulate innovation, and the need to enhance teacher preparation and professional development in the STEM fields.

An increasing number of researchers express alarm at the nearly one out of three public high school students who won't graduate and the failure of our systems to adequately prepare high school graduates, and particularly minorities, for success in college and the work place. Addressing the challenge of successfully thriving in a world of change, the Council on Competitiveness examined the pressing issue of attracting more young Americans to science and engineering fields. Currently, less than 15 percent of U.S. students have the prerequisite skills to pursue scientific or technical degrees in college. Only 5.5 percent of the 1.1 million high school seniors who took the college entrance exam in 2002 planned to pursue an engineering degree. And there continues to be poor representation of women and minorities in these fields. The National Academies report, ''Rising Above the Gathering Storm,'' notes that amongst the U.S. science and technology workforce 38 percent of PhDs were foreign born. Changes need to be enacted to not only increase the number of students pursuing math and science degrees but to prepare them to pursue these degrees.

Indeed, numerous national reports in recent years have called for efforts to improve K–12 education, teacher preparation and professional development in the STEM areas. Recommendations include increasing the numbers of postsecondary students pursuing careers in the areas of mathematics, science, engineering, and technology and increasing the numbers of postsecondary students in the STEM fields who will then pursue concurrent degrees in education. Increasing funding for not only STEM education but STEM research has received strong recommendations as an important and timely approach to addressing improvements in education and innovation. Finally, a critical factor to ensuring program success is the ability to engage and then hold students' interests in the various STEM fields enough to encourage them to pursue STEM careers.

Our bill seeks to craft a comprehensive response to many of these issues, and includes the following provisions.

Title I—Improving Pre-kindergarten Through Grade 16, supplies a remedy to the critical issue of the disconnect existing between high school outcomes and college expectations. Through the formation of partnerships between P–12 and higher education systems in the states—P–16 Commissions—academic success in postsecondary education becomes the priority agenda item for reform. We anticipate that P–16 Commissions will bring about an increase in the percentage of academically prepared students, particularly low-income and minority students, and a decrease in the percentage of college students requiring remedial coursework, particularly with respect to math, science, and engineering.

Many States across our country have already seen the wisdom of a P–16 Commission and have been working on goals and implementation. The results, although preliminary for many States, are vastly encouraging. Title I will provide support both to States with existing P–16 bodies, or States seeking to establish such commissions. It will give priority to the States also seeking to establish or enhance data systems. We hope that States will have an opportunity to craft a vision that will reach all students over time so that their educational pathway of access to and success in college will be ensured.

Magnet schools have the capacity to create learning environments tailored to the interests and needs of its community and can offer a focused curriculum capable of attracting substantial numbers of students of different racial backgrounds. Title II of our bill authorizes the National Science Foundation to award grants to assist in the promotion of innovation and competitiveness through the development and implementation of magnet school programs. These programs would encourage students to meet state academic content standards through the development and design of innovative educational methods, practices and curricula that promote student achievement in STEM courses and encourage student enrollment in postsecondary institutions.

In addition, Title II authorizes NSF grants to elementary and middle schools creating pilot programs implementing innovation-based experiential learning environments. Innovation-based experiential learning is a teaching model that seeks to seed traditional technical studies with new exposure to methods for creative thinking and translating ideas into practical applications. Such programs would likely involve immersing students in hands-on experimentation that helps students discover new concepts and use those concepts to solve real-world problems.

The interrelated demands that mathematics and science education places upon schools to prepare both teachers and students must be addressed consecutively. Teachers need to be better prepared to teach STEM topics across the board and students need to have access to teachers who are well versed in their content subjects.

Title III of our bill authorizes funding to increase the number of graduates from postsecondary institutions with concurrent degrees in education and STEM fields. This program is based on the successful UTeach model at the University of Texas at Austin. Encouraging science and math majors to concurrently pursue certification in the field of education will help increase the number and quality of teachers in these fields. The model program at the University of Texas has experienced impressive success in attracting and keeping promising young STEM teachers. Our bill also calls for the establishment of Teacher Professional Development Institutes to promote innovative and effective approaches to improving teacher quality by providing professional development support for educators already in the classroom. The Teacher Institute Model encourages collaboration between urban teachers and university faculty to improve student learning by enhancing teacher mastery of subject matter. It is based upon the model which has been in operation at Yale University in New Haven, CT for over 25 years.

Our Nation recognizes the pressing need to increase funding for STEM research and boost the number of students in undergraduate and graduate programs pursuing mathematics and science degrees for our country's continued development, prosperity and security.

Within the final title of our bill, Title IV, NSF basic research funding is doubled. NSF is authorized to expand funding for STEM education through increased fellowships and trainee programs at the undergraduate and graduate level. A clearinghouse at the National Science Foundation of successful professional science master's degree program elements will be made available to postsecondary institutions as well as grants for developing pilot programs or improving current programs. In addition the NSF Tech Talent program is reauthorized with increased funding. This program provides competitive grants to undergraduate universities to develop new methods of increasing the number of students receiving degrees in science, math, and engineering. Finally, it is in our interest to examine and understand the emerging field of services sciences, a multidisciplinary curriculum partnering science, technology, engineering, and math with management and business disciplines. To this end, the National Science Foundation will conduct a collaborative study with leaders from institutions of higher education to come to an understanding of how best to support this new field.

Our National Innovation Education Act takes a broad and comprehensive approach to addressing national prosperity, security and our ability to compete internationally with recommendations for enhanced education initiatives in order to improve our national competitiveness. Improving current education for all students will allow graduates greater opportunity for economic success and greater ability to successfully compete in the global market. Our very Nation's future prosperity and security depends upon our willingness as leaders to infuse education with the requisite innovative vision that will inspire our youth to reach for goals that are achievable only beyond the ordinary bounds.

I urge my colleagues to act favorably on this measure. I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3483

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Innovation Education Act''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—IMPROVING PREKINDERGARTEN THROUGH GRADE 16 EDUCATION

SEC. 101. SHORT TITLE.

This title may be cited as the ''College Pathway Act of 2006''.

SEC. 102. PURPOSES.

The purposes of this title are the following:

(1) To broaden the focus of Federal, State, and local higher education programs to promote academic success in postsecondary education, particularly with respect to mathematics, science, engineering, and technology.

(2) To increase the percentage of low-income and minority students who are academically prepared to enter and successfully complete postsecondary-level general education coursework.

(3) To decrease the percentage of students requiring developmental coursework through grants that enable States to coordinate the public prekindergarten through grade 12 education system and the postsecondary education system—

(A) to ensure that covered institutions articulate and publicize the prerequisite skills and knowledge expected of incoming postsecondary students attending covered institutions, in order to provide students and other interested parties with accurate information pertaining to the students' necessary preparations for postsecondary education;

(B) to establish and implement middle school and secondary school course enrollment guidelines while ensuring rigorous content standards—

(i) to ensure that public secondary school students, in all major racial and ethnic groups, and income levels, complete academic courses linked with academic success in mathematics, science, engineering, and technology at the postsecondary level; and

(ii) to increase the percentage of students in each major racial group, ethnic group, and income level who graduate from secondary school and enter postsecondary education with the academic preparation necessary to successfully complete postsecondary-level general education coursework, particularly with respect to mathematics, science, engineering, and technology;

(C) to implement programs and policies that increase secondary school graduation rates while ensuring rigorous content standards; and

(D) to collect and analyze disaggregated longitudinal student data throughout P–16 education in order to—

(i) understand and improve students' progress throughout P–16 education;

(ii) understand problems and needs throughout P–16 education; and

(iii) align prekindergarten through grade 12 academic standards and higher education standards so that more students are prepared to successfully complete postsecondary-level general education coursework.

SEC. 103. DEFINITIONS.

In this title:

(1) IN GENERAL.—The terms ''local educational agency'', ''parent'', ''secondary school'', and ''State'' have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) ACADEMIC ASSESSMENTS.—The term ''academic assessments'' means the academic assessments implemented by a State educational agency pursuant to section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)).

(3) ACADEMIC STANDARDS.—The term ''academic standards'' means the challenging academic content standards and challenging student academic achievement standards adopted by a State pursuant to section 1111(b)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(1)).

(4) COVERED INSTITUTION.—The term ''covered institution'' means an institution of higher education that participates in a program under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(5) DEVELOPMENTAL COURSEWORK.—The term ''developmental coursework'' means coursework that a student is required to complete in order to attain prerequisite knowledge or skills necessary for entrance into a postsecondary degree or certification program.

(6) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given the term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002).

(7) P–16 EDUCATION.—The term ''P–16 education'' means the educational system from prekindergarten through the conferring of a baccalaureate degree.

(8) P–16 EDUCATOR.—The term ''P–16 educator'' means an individual teaching in P–16 education.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(10) STUDENT.—The term ''student'' means any student enrolled in a public school.

SEC. 104. P-16 EDUCATION STEWARDSHIP SYSTEM GRANTS.

(a) PROGRAM AUTHORIZED.—From amounts appropriated under section 109 for a fiscal year, and subject to subsection (b), the Secretary shall award grants, on a competitive basis, to States to enable the States—

(1) to establish—

(A) P–16 education stewardship commissions in accordance with section 106; or

(B) P–16 education stewardship systems consisting of—

(i) a P–16 education stewardship commission in accordance with section 106; and

(ii) a P–16 education data system in accordance with section 107; and

(2) to carry out the activities and programs described in the State application and plan submitted under section 105.

(b) AWARD BASIS.—In determining the approval and amount of a grant under subsection (a), the Secretary shall give priority to an application from a State that desires the grant to establish a P–16 education stewardship system described in subsection (a)(1)(B).

(c) PERIOD OF GRANTS.—

(1) STATES ESTABLISHING P–16 EDUCATION STEWARDSHIP SYSTEMS.—Each grant made under this section to a State to establish a P–16 education stewardship system described in subsection (a)(1)(B) shall be awarded for a period of 5 years.

(2) STATES ESTABLISHING P–16 EDUCATION STEWARDSHIP COMMISSIONS.—Each grant made under this section to a State to establish a P–16 education stewardship commission described in subsection (a)(1)(A) shall be awarded for a period of 3 years.

SEC. 105. STATE APPLICATION AND PLAN.

(a) IN GENERAL.—A State desiring a grant under section 104 shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) CONTENTS.—Each application submitted under this section shall include, at a minimum, the following:

(1) A demonstration that the State, not later than 5 months after receiving grant funds under this title, will establish a P–16 education stewardship commission described in section 106.

(2) For a state applying for a grant under section 104(a)(1)(B), a demonstration that the State, not later than 2 years after receiving grant funds under this title, will implement, expand, or improve a P–16 education data system described in section 107.

(3) A demonstration that the State will work with the State P–16 education stewardship commission and others as necessary to examine the relationship among the content of postsecondary education admission and placement exams, the prerequisite skills and knowledge required to successfully take postsecondary-level general education coursework, the prekindergarten through grade 12 courses and academic factors associated with academic success at the postsecondary level, particularly with respect to mathematics, science, engineering, and technology, and existing academic standards and aligned academic assessments.

(4) A description of how the State will, using the information from the State P–16 education stewardship commission, increase the percentage of students taking courses that have the highest correlation of academic success at the postsecondary level, for each of the following groups of students:

(A) Economically disadvantaged students.

(B) Students from each major racial and ethnic group.

(C) Students with disabilities.

(D) Students with limited English proficiency.

(5) A description of how the State will distribute the information in the P–16 education stewardship commission's report under section 106(c)(4) to the public in the State, including public secondary schools, local educational agencies, school counselors, P–16 educators, institutions of higher education, students, and parents.

(6) An assurance that the State will continue to pursue effective P–16 education alignment strategies after the end of the grant period.

SEC. 106. P-16 EDUCATION STEWARDSHIP COMMISSION.

(a) P–16 EDUCATION STEWARDSHIP COMMISSION.—

(1) IN GENERAL.—Each State receiving a grant under section 104 shall establish a P–16 education stewardship commission that has the policymaking ability to meet the requirements of this section.

(2) EXISTING COMMISSION.—The State may designate an existing coordinating body or commission as the State P–16 education stewardship commission for purposes of this title, if the body or commission meets, or is amended to meet, the basic requirements of this section.

(b) MEMBERSHIP.—

(1) COMPOSITION.—Each P–16 education stewardship commission shall be composed of the Governor of the State, or the designee of the Governor, and the stakeholders of the statewide education community, as determined by the Governor or the designee of the Governor, such as—

(A) the chief State official responsible for administering prekindergarten through grade 12 education in the State;

(B) the chief State official of the entity primarily responsible for the supervision of institutions of higher education in the State;

(C) bipartisan representation from the State legislative committee with jurisdiction over prekindergarten through grade 12 education and higher education;

(D) representatives of 2- and 4-year institutions of higher education in the State;

(E) representatives of the business community; and

(F) at the discretion of the Governor, or the designee of the Governor, representatives from prekindergarten through grade 12 and higher education governing boards and other organizations.

(2) CHAIRPERSON; MEETINGS.—The Governor of the State, or the designee of the Governor, shall serve as chairperson of the P–16 education stewardship commission and shall convene regular meetings of the commission.

(c) DUTIES OF THE COMMISSION.—

(1) MEETINGS OF COVERED INSTITUTIONS.—

(A) IN GENERAL.—Each State P–16 education stewardship commission shall convene regular meetings of the covered institutions in the State for the purpose of assessing and reaching consensus regarding—

(i) the prerequisite skills and knowledge expected of incoming freshmen to successfully engage in and complete postsecondary-level general education coursework without the prior need to enroll in developmental coursework; and

(ii) patterns of coursework and other academic factors that demonstrate the highest correlation with success in completing postsecondary-level general education coursework and degree or certification programs, particularly with respect to mathematics, science, engineering, and technology.

(B) FINDINGS OF COVERED INSTITUTIONS.—The covered institutions shall communicate to the P–16 education stewardship commission the findings of the covered institutions, which—

(i) shall include the consensus on the prerequisite skills and knowledge, patterns of coursework, and other academic factors described in subparagraph (A);

(ii) shall address, at minimum, the subjects of reading or language arts, history, mathematics, science, technology, and engineering, and may cover additional academic content areas;

(iii) shall be descriptive of content and purpose, and shall not be limited to a simple listing of secondary course names; and

(iv) may be different for 2- and 4-year institutions of higher education.

(2) COMMISSION RECOMMENDATIONS.—Not later than 18 months after a State receives a grant under section 104, and annually thereafter for each year in the grant period, the State P–16 education stewardship commission shall—

(A) develop recommendations regarding the prerequisite skills and knowledge, patterns of coursework, and other academic factors described in paragraph (1)(A); and

(B) develop recommendations and enact policies to increase the success rate of students in the students' transition from secondary school to postsecondary education, including policies to increase success rates for—

(i) students of economic disadvantage;

(ii) students of racial and ethnic minorities;

(iii) students with disabilities; and

(iv) students with limited English proficiency.

(3) COMMISSION FINDINGS.—Not later than 3 years after a State receives a grant under section 104(a)(1)(B), the State P–16 education stewardship commission shall—

(A) compile and interpret the findings from the P–16 education data system; and

(B) include the compilation and interpretation of the findings in the report described in paragraph (4)(A).

(4) REPORTS.—

(A) IN GENERAL.—Not later than 18 months after a State receives a grant under section 104, and annually thereafter for each year in the grant period, the State P–16 education stewardship commission shall prepare and submit to the Secretary a clear and concise report that shall include the recommendations described in subparagraphs (A) and (B) of paragraph (2).

(B) DISTRIBUTION TO THE PUBLIC.—Not later than 60 days after the submission of a report under subparagraph (A), each State P–16 education stewardship commission shall publish and widely distribute the information in the report to the public in the State, including—

(i) all public secondary schools and local educational agencies;

(ii) school counselors;

(iii) P–16 educators;

(iv) institutions of higher education; and

(v) students and parents, especially students and parents of students listed in clauses (i) through (iv) of paragraph (2)(B) and those entering grade 9 in the next academic year, to assist students and parents in making informed and strategic course enrollment decisions.

SEC. 107. P-16 EDUCATION DATA SYSTEM.

(a) ESTABLISHMENT.—Not later than 2 years after a State receives a grant under section 104(a)(1)(B), the State shall establish a Statewide longitudinal data system that provides each student, upon enrollment in a public school or in a covered institution in the State, with a unique identifier that is retained throughout the student's enrollment in P–16 education in the State.

(b) VALID DATA AND COMPLIANCE WITH FERPA.—The State, through the implementation of the data system described in subsection (a), shall—

(1) ensure the implementation and use of valid and reliable secondary school dropout data; and

(2) ensure that the data system is compliant with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g).

(c) REQUIRED ELEMENTS OF A STATEWIDE DATA SYSTEM.—The State shall ensure that the data system described in subsection (a) includes the following elements:

(1) A unique statewide student identifier.

(2) Student-level enrollment, demographic, and program participation information.

(3) Individual students' yearly test records.

(4) Information on students not tested by grade and subject.

(5) A teacher identifier system with the ability to match teachers to students.

(6) Student-level transcript information, including information on courses completed and grades earned.

(7) Student-level college readiness test scores.

(8) Student-level information about the points at which students exit, transfer in, transfer out, drop out, or graduate P–16 education.

(9) The capacity to communicate with higher education data systems.

(10) A State data audit system assessing data quality, validity, and reliability.

(d) FUNCTIONS OF THE STATEWIDE DATA SYSTEM.—In implementing the data system described in subsection (a), the State shall—

(1) identify factors that correlate to students' ability to successfully engage in and complete postsecondary-level general education coursework without the need for prior developmental coursework;

(2) identify factors to increase the percentage of low-income and minority students who are academically prepared to enter and successfully complete postsecondary-level general education coursework; and

(3) use data to otherwise inform education policy and practice.

(e) EXISTING DATA SYSTEMS.—A State may employ, coordinate, or revise an existing data system for purposes of this section if such data system produces valid and reliable information that satisfies the requirements of subsections (b) through (d).

SEC. 108. REPORTS; TECHNICAL ASSISTANCE.

(a) STATE REPORTS.—

(1) ANNUAL REPORT.—Each State that receives a grant under section 104 shall submit an annual report to the Secretary for each year of the grant period that shall include a description of the activities undertaken under the grant to improve academic readiness for postsecondary-level general education coursework and course completion.

(2) DISSEMINATION.—Each State shall prepare and widely disseminate the report described in paragraph (1) to the public in the State, including secondary schools, local educational agencies, school counselors, P–16 educators, institutions of higher education, students, and parents.

(b) SECRETARY REPORTS.—

(1) ANNUAL REPORT.—The Secretary shall submit an annual report to Congress that includes—

(A) findings from the State reports submitted under subsection (a)(1);

(B) a description of the actions taken by the Department of Education to assist States with creating P–16 education stewardship commissions and P–16 education data systems;

(C) a description of the actions and incentives planned by the States' P–16 education stewardship commissions—

(i) to help States align academic standards, courses, and academic assessments with postsecondary academic expectations, courses, and assessments;

(ii) to help States increase the percentage of minority and low-income students prepared to enter and succeed at the postsecondary level; and

(iii) to decrease postsecondary developmental coursework enrollment rates of minority and low-income students;

(D) a description of the actions and incentives planned to help States reduce postsecondary developmental coursework enrollment rates;

(E) an assessment of the effectiveness of P-16 education stewardship commissions in improving college readiness and eliminating the need for developmental coursework; and

(F) recommendations regarding how to make the P–16 education stewardship commissions more effective, and whether the establishment of such commissions should be encouraged throughout the United States.

(2) AVAILABILITY.—The Secretary shall make the annual report described in paragraph (1) available to the public and to each State and institution of higher education.

(c) TECHNICAL ASSISTANCE.—The Secretary shall provide, to the extent practicable, technical assistance to States and institutions of higher education seeking technical assistance under this title.

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $55,000,000 for fiscal year 2007 and such sums as may be necessary for each of fiscal years 2008 through 2011.

TITLE II—NATIONAL SCIENCE FOUNDATION MAGNET SCHOOLS AND INNOVATION-BASED LEARNING

SEC. 201. GENERAL DEFINITIONS.

Except as otherwise provided, the terms used in this title have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

SEC. 202. MAGNET SCHOOLS.

(a) PURPOSE.—The purpose of this section is to assist in the promotion of innovation and competitiveness by providing financial assistance to eligible local educational agencies for—

(1) the development and implementation of magnet school programs that will assist eligible local educational agencies in achieving systemic reforms and providing all students the opportunity to meet challenging State academic content standards and student academic achievement standards;

(2) the development and design of innovative educational methods, practices, and curriculum that promote student achievement in science, mathematics, and technology courses;

(3) improving the capacity of eligible local educational agencies, including through professional development, to continue operating

magnet schools after Federal funding for the magnet schools is terminated; and

(4) ensuring that students enrolled in such schools have access to a high quality education that will enable such students to succeed academically and enroll in postsecondary education at a high level.

(b) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term ''Director'' means the Director of the National Science Foundation.

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term ''eligible local educational agency'' means a local educational agency described in section 5304 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7231c).

(3) MAGNET SCHOOL.—The term ''magnet school'' means a public elementary school or public secondary school that—

(A) offers a curriculum focused on science, mathematics, and technology; and

(B) attracts a substantial number of students from different racial backgrounds.

(c) PROGRAM AUTHORIZED.—The Director, in accordance with this section, is authorized to award grants to eligible local educational agencies, and consortia of such agencies where appropriate, to carry out the purpose of this section for magnet schools.

(d) APPLICATIONS AND REQUIREMENTS.—

(1) APPLICATIONS.—An eligible local educational agency, or consortium of such agencies, desiring to receive a grant under this section shall submit an application to the Director at such time, in such manner, and containing such information and assurances as the Director may reasonably require.

(2) INFORMATION AND ASSURANCES.—Each application submitted under paragraph (1) shall include—

(A) a description of—

(i) how a grant awarded under this section will be used to promote instruction in science, mathematics, and technology;

(ii) the manner and extent to which the magnet school program will increase student academic achievement in the instructional areas offered by the school;

(iii) how the applicant will continue the magnet school program after assistance under this section is no longer available;

(iv) how grant funds under this section will be used—

(I) to improve student academic achievement for all students attending the magnet school programs; and

(II) to implement services and activities that are consistent with programs under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.); and

(v) the criteria to be used in selecting students to attend the proposed magnet school program; and

(B) assurances that the applicant will—

(i) use grant funds under this section for the purpose specified in subsection (a);

(ii) employ highly qualified teachers in the courses of instruction assisted under this section; and

(iii) carry out a high-quality education program that will encourage greater parental involvement in decision making.

(e) PRIORITY.—In awarding grants under this section, the Director shall give priority to applicants that propose to carry out new magnet school programs or significantly revise existing magnet school programs.

(f) USE OF FUNDS.—

(1) IN GENERAL.—Grant funds made available under this section may be used by an eligible local educational agency or consortium of such agencies—

(A) for planning and promotional activities directly related to the development, expansion, continuation, or enhancement of academic programs and services offered at magnet schools;

(B) for the acquisition of books, materials, and equipment (including computers), and the maintenance and operation of materials, equipment, and computers, necessary to conduct programs in magnet schools;

(C) for the compensation, or subsidization of the compensation, of elementary school and secondary school teachers who are highly qualified, and instructional staff where applicable, who are necessary to conduct programs in magnet schools;

(D) for activities, which may include professional development, that will build the capacity of the eligible local educational agency, or consortium of such agencies, to operate magnet school programs once the grant period has ended;

(E) to enable the eligible local educational agency, or consortium of such agencies, to have more flexibility in the administration of a magnet school program in order to serve students attending a school who are not enrolled in a magnet school program; and

(F) to enable the eligible local educational agency, or consortium of such agencies, to have flexibility in designing magnet schools for students in all elementary school and secondary school grades.

(2) SPECIAL RULE.—Grant funds under this section may be used for activities described in paragraphs (2) and (3) of subsection (a) only if the activities are directly related to improving—

(A) student academic achievement based on the State's challenging academic content standards and student academic achievement standards; or

(B) student skills in or knowledge of mathematics, science, and technology as well as other core academic subjects.

(g) PROHIBITION.—Grants under this section may not be used for transportation or any activity that does not augment academic improvement.

(h) LIMITATION.—

(1) DURATION OF AWARDS.—A grant under this section shall be awarded for a period that shall not exceed 3 fiscal years.

(2) LIMITATION ON PLANNING FUNDS.—An eligible local educational agency, or consortium of agencies, may expend for planning (professional development shall not be considered to be planning for the purposes of this subsection) not more than 50 percent of the grant funds received under this section for the first year of the program and not more than 15 percent of such funds for each of the second and third such years.

(3) AMOUNT.—No eligible local educational agency, or consortium of such agencies, awarded a grant under this section shall receive more than $4,000,000 under this section for any one fiscal year.

(4) TIMING.—To the extent practicable, the Secretary shall award grants for any fiscal year under this section not later than July 1 of the applicable fiscal year.

(i) EVALUATIONS.—

(1) RESERVATION.—The Director may reserve not more than 2 percent of the funds appropriated to carry out this section for any fiscal year to carry out evaluations, provide technical assistance, and carry out dissemination projects with respect to magnet school programs assisted under this section.

(2) CONTENTS.—Each evaluation described in paragraph (1) at a minimum shall address—

(A) how and the extent to which magnet school programs lead to educational quality and improvement;

(B) the extent to which magnet school programs enhance student access to high quality education; and

(C) the extent to which magnet school programs differ from other school programs in terms of the organizational characteristics and resource allocation of such magnet school programs.

SEC. 203. INNOVATION-BASED EXPERIENTIAL LEARNING.

(a) PILOT PROGRAM.—

(1) PROGRAM AUTHORIZED.—The Director of the National Science Foundation shall award grants to local educational agencies to enable the local educational agencies to implement innovation-based experiential learning in a total of 500 elementary schools or middle schools in the United States.

(2) APPLICATION.—A local educational agency desiring a grant under this section shall submit an application at such time, in such manner, and accompanied by such information as the Director of the National Science Foundation may require.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2007 and $20,000,000 for each of the fiscal years 2008 and 2009.

TITLE III—TEACHER TRAINING AND PROFESSIONAL DEVELOPMENT

SEC. 301. BACCALAUREATE DEGREES IN MATHEMATICS AND SCIENCE WITH TEACHER CERTIFICATION.

(a) DEFINITIONS.—Unless otherwise specified in this section, the terms used in this section have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(b) GRANTS AUTHORIZED.—From the amounts authorized under subsection (h), the Secretary shall award grants to eligible recipients to enable the eligible recipients to provide integrated courses of study in mathematics, science, or engineering and teacher education, that lead to a baccalaureate degree in mathematics, science, or engineering with concurrent teacher certification.

(c) DEFINITION OF ELIGIBLE RECIPIENT.—In this section, the term ''eligible recipient'' means any department of mathematics, science, or engineering of an institution of higher education.

(d) AWARD AND DURATION.—

(1) AWARD.—The Secretary shall award a grant under this section to each eligible recipient that collaborates with a teacher preparation program at an institution of higher education to develop undergraduate degrees in mathematics, science, or engineering with pedagogy education and teacher certification.

(2) DURATION.—The Secretary shall award a grant under this section to each eligible recipient in an amount that is not more than $1,000,000 per year for a period of 5 years.

(e) MATCHING REQUIREMENT.—Each eligible recipient receiving a grant under this section shall provide, from non-Federal sources (provided in cash or in kind), to carry out the activities supported by the grant, an amount that is not less than 25 percent of the amount of the grant for the first year of the grant, not less than 35 percent of the amount of the grant for the second year of the grant, and not less than 50 percent of the amount of the grant for each succeeding fiscal year of the grant.

(f) APPLICATION.—

(1) IN GENERAL.—Each eligible recipient desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall include—

(A) a description of how the eligible recipient will use grant funds to develop and administer undergraduate degrees in mathematics, science, or engineering with pedagogy education and teacher certification, including a description of proposed high-quality research and laboratory experiences that will be available to students;

(B) a description of how the mathematics, science, or engineering departments will coordinate with a teacher preparation program to carry out the activities authorized under this section;

(C) a resource assessment that describes the resources available to the eligible recipient, the intended use of the grant funds, and the commitment of the resources of the eligible recipient to the activities assisted under this section, including financial support, faculty participation, time commitments, and continuation of the activities assisted under the grant when the grant period ends;

(D) an evaluation plan, including measurable objectives and benchmarks for—

(i) improving student retention;

(ii) increasing the percentage of highly qualified mathematics and science teachers; and

(iii) improving kindergarten through grade 12 student academic performance in mathematics and science;

(E) a description of the activities the eligible recipient will conduct to ensure graduates of the program keep informed of the latest developments in the respective fields;

(F) a description of how the eligible recipient will work with local educational agencies in the area in which the eligible recipient is located and, to the extent practicable, with local educational agencies where graduates of the program authorized under this section are employed, to ensure that the activities required under subsection (g)(3) are carried out; and

(G) a description of efforts to encourage applications to the program from underrepresented groups, including women and minority groups.

(g) AUTHORIZED ACTIVITIES.—An eligible recipient shall use the funds received under this section—

(1) to develop and administer teacher education and certification programs with in-depth content education and subject-specific education in pedagogy, leading to baccalaureate degrees in mathematics, science, or engineering with concurrent teacher certification;

(2) to offer high-quality research experiences and training in the use of educational technology; and

(3) to work with local educational agencies in the area in which the eligible recipient is located and, to the extent practicable, with local educational agencies where graduates of the program authorized under this section are employed, to support the new teachers during the initial years of teaching, which may include—

(A) promoting effective teaching skills;

(B) development of skills in educational interventions based on scientifically-based research;

(C) providing opportunities for high-quality teacher mentoring;

(D) providing opportunities for regular professional development;

(E) interdisciplinary collaboration among exemplary teachers, faculty, researchers, and other staff who prepare new teachers; and

(F) allowing time for joint lesson planning and other constructive collaborative activities.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $30,000,000 for fiscal year 2007 and such sums as may be necessary for each of the fiscal years 2008 through 2013.

SEC. 302. TEACHERS PROFESSIONAL DEVELOPMENT INSTITUTES.

Title II of the Higher Education Act of 1965 (20 U.S.C. 1021 et seq.) is amended by adding at the end the following:

"PART C—TEACHERS PROFESSIONAL DEVELOPMENT INSTITUTES

"SEC. 241. SHORT TITLE.

''This part may be cited as the 'Teachers Professional Development Institutes Act'.

"SEC. 242. PURPOSE.

''The purpose of this part is to provide Federal assistance to support the establishment and operation of Teachers Professional Development Institutes for local educational agencies that serve significant low-income populations in States throughout the Nation—

''(1) to promote innovative and effective approaches to improving teacher quality through the use of the Teacher Institute Model that encourages collaboration between urban school teachers and university faculty;

''(2) to improve student learning; and

''(3) to enhance the quality of teaching by strengthening the subject matter mastery and pedagogical skills of current teachers through continuing teacher preparation, particularly with respect to mathematics, science, technology, and engineering.

"SEC. 243. DEFINITIONS.

''In this part:

''(1) POVERTY LINE.—The term 'poverty line' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of the size involved.

''(2) SIGNIFICANT LOW-INCOME POPULATION.—The term 'significant low-income population' means a student population of which not less than 25 percent are from families with incomes below the poverty line.

''(3) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(4) TEACHERS PROFESSIONAL DEVELOPMENT INSTITUTE.—The term 'Teachers Professional Development Institute' means a partnership or joint venture between or among 1 or more institutions of higher education, and 1 or more local educational agencies serving a significant low-income population, which partnership or joint venture—

''(A) is entered into for the purpose of improving the quality of teaching and learning through collaborative seminars designed to enhance both the subject matter and the pedagogical resources of the seminar participants, particularly with respect to mathematics, science, technology, and engineering; and

''(B) works in collaboration to determine the direction and content of the collaborative seminars.

"SEC. 244. GRANT AUTHORITY.

''(a) IN GENERAL.—The Secretary is authorized—

''(1) to award grants to Teachers Professional Development Institutes to encourage the establishment and operation of Teachers Professional Development Institutes where not less than 50 percent of collaborative seminars are targeted to the fields of mathematics, science, technology, and engineering; and

''(2) to provide technical assistance, either directly or through existing Teachers Professional Development Institutes, to assist local educational agencies and institutions of higher education in preparing to establish and in operating Teachers Professional Development Institutes.

''(b) SELECTION CRITERIA.—In selecting a Teachers Professional Development Institute for a grant under this part, the Secretary shall consider—

''(1) the extent to which the proposed Teachers Professional Development Institute will serve a community with a significant low-income population;

''(2) the extent to which the proposed Teachers Professional Development Institute will follow the Understandings and Necessary Procedures that have been developed following the National Demonstration Project;

''(3) the extent to which the local educational agency participating in the proposed Teachers Professional Development Institute has a high percentage of teachers who are unprepared or under prepared to teach the core academic subjects the teachers are assigned to teach, particularly in the areas of mathematics, science, technology, and engineering; and

''(4) the extent to which the proposed Teachers Professional Development Institute will receive a level of support from the community and other sources that will ensure the requisite long-term commitment for the success of a Teachers Professional Development Institute.

''(c) CONSULTATION.—

''(1) IN GENERAL.—In evaluating applications under subsection (b), the Secretary may request the advice and assistance of existing Teachers Professional Development Institutes.

''(2) STATE AGENCIES.—If the Secretary receives 2 or more applications for new Teachers Professional Development Institutes that propose serving the same State, the Secretary shall consult with the State educational agency regarding the applications.

''(d) FISCAL AGENT.—For the purpose of this part, an institution of higher education participating in a Teachers Professional Development Institute shall serve as the fiscal agent for the receipt of grant funds under this part.

''(e) LIMITATIONS.—A grant under this part—

''(1) shall be awarded for a period not to exceed 5 years; and

''(2) shall not exceed 50 percent of the total costs of the eligible activities, as determined by the Secretary.

"SEC. 245. ELIGIBLE ACTIVITIES.

''(a) IN GENERAL.—A Teachers Professional Development Institute that receives a grant under this part may use the grant funds—

''(1) for the planning and development of applications for the establishment of Teachers Professional Development Institutes;

''(2) to provide assistance to existing Teachers Professional Development Institutes established during the National Demonstration Project to enable the Teachers Professional Development Institutes—

''(A) to further develop existing Teachers Professional Development Institutes; or

''(B) to support the planning and development of applications for new Teachers Professional Development Institutes;

''(3) for the salary and necessary expenses of a full-time director to plan and manage such Teachers Professional Development Institute and to act as liaison between the participating local educational agency and institution of higher education;

''(4) to provide staff, equipment, and supplies, and to pay other operating expenses for the development and maintenance of Teachers Professional Development Institutes;

''(5) to provide stipends for teachers participating in collaborative seminars in the

sciences and humanities, and to provide remuneration for those members of the higher education faculty who lead the seminars; and

''(6) to provide for the dissemination through print and electronic means of curriculum units prepared in conjunction with Teachers Professional Development Institutes seminars.

''(b) TECHNICAL ASSISTANCE.—The Secretary may use not more than 25 percent of the funds appropriated to carry out this part to provide technical assistance to facilitate the establishment and operation of Teachers Professional Development Institutes. For the purpose of this subsection, the Secretary may contract with existing Teachers Professional Development Institutes to provide all or a part of the technical assistance under this subsection.

''SEC. 246. APPLICATION, APPROVAL, AND AGREEMENT.

''(a) IN GENERAL.—To receive a grant under this part, a Teachers Professional Development Institute shall submit an application to the Secretary that—

''(1) meets the requirement of this part and any regulations under this part;

''(2) includes a description of how the Teachers Professional Development Institute intends to use funds provided under the grant;

''(3) includes such information as the Secretary may require to apply the criteria described in section 244(b);

''(4) includes measurable objectives for the use of the funds provided under the grant; and

''(5) contains such other information and assurances as the Secretary may require.

''(b) APPROVAL.—The Secretary shall—

''(1) promptly evaluate an application received for a grant under this part; and

''(2) notify the applicant within 90 days of the receipt of a completed application of the Secretary's approval or disapproval of the application.

''(c) AGREEMENT.—Upon approval of an application, the Secretary and the Teachers Professional Development Institute shall enter into a comprehensive agreement covering the entire period of the grant.

''SEC. 247. REPORTS AND EVALUATIONS.

''(a) REPORT.—Each Teachers Professional Development Institute receiving a grant under this part shall report annually on the progress of the Teachers Professional Development Institute in achieving the purpose of this part and the purposes of the grant.

''(b) EVALUATION AND DISSEMINATION.—

''(1) EVALUATION.—The Secretary shall evaluate the activities funded under this part and submit an annual report regarding the activities to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives.

''(2) DISSEMINATION.—The Secretary shall broadly disseminate successful practices developed by Teachers Professional Development Institutes.

''(c) REVOCATION.—If the Secretary determines that a Teachers Professional Development Institute is not making substantial progress in achieving the purpose of this part and the purposes of the grant by the end of the second year of the grant under this part, the Secretary may take appropriate action, including revocation of further payments under the grant, to ensure that the funds available under this part are used in the most effective manner.

''SEC. 248. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part—

''(1) $4,000,000 for fiscal year 2007;

''(2) $5,000,000 for fiscal year 2008;

''(3) $6,000,000 for fiscal year 2009;

''(4) $7,000,000 for fiscal year 2010; and

''(5) $8,000,000 for fiscal year 2011.''.

TITLE IV—STEM EDUCATION AND RESEARCH

SEC. 401. DEFINITIONS.

In this title:

(1) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(2) PROFESSIONAL SCIENCE MASTER'S DEGREE PROGRAM.—The term ''professional science master's degree program'' means a graduate degree program in science and mathematics that extends science training to strategic planning and business management and focuses on multidisciplinary specialties such as business and information technology (IT), biology and IT (bioinformatics), and computational chemistry.

(3) SERVICE SCIENCE.—The term ''service science'' means curriculums, research programs, and training regimens, including service sciences, management, and engineering (SSME) programs, that exist or that are being developed to teach individuals to apply technology, organizational process management, and industry-specific knowledge to solve complex problems.

(4) SSME.—The term ''SSME'' means the discipline known as service sciences, management, and engineering that—

(A) applies scientific, engineering, and management disciplines to tasks that one organization performs beneficially for others, generally as part of the services sector of the economy; and

(B) integrates computer science, operations research, industrial engineering, business strategy, management sciences, and social and legal sciences, in order to encourage innovation in how organizations create value for customers and shareholders that could not be achieved through such disciplines working in isolation.

SEC. 402. GRADUATE FELLOWSHIPS AND GRADUATE TRAINEESHIPS.

(a) GRADUATE RESEARCH FELLOWSHIP PROGRAM.—

(1) IN GENERAL.—During the 5-year period beginning on the date of the enactment of this Act, the Director of the National Science Foundation shall expand the Graduate Research Fellowship Program of the Foundation so that an additional 1250 fellowships are awarded to United States citizens under such Program during such period.

(2) EXTENSION OF FELLOWSHIP PERIOD.—The Director of the National Science Foundation is authorized to award fellowships under the Graduate Research Fellowship Program for a period of 5 years, subject to funds being made available for such purpose.

(3) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts authorized to be appropriated, there are authorized to be appropriated $51,000,000 for each of the fiscal years 2007 through 2011 to provide an additional 250 fellowships under the Graduate Research Fellowship Program during each such fiscal year.

(b) INTEGRATIVE GRADUATE EDUCATION AND RESEARCH TRAINEESHIP PROGRAM.—

(1) IN GENERAL.—During the 5-year period beginning on the date of the enactment of this Act, the Director of the National Science Foundation shall expand the Integrative Graduate Education and Research Traineeship program of the Foundation so that an additional 1,250 United States citizens are awarded grants under such program during such period.

(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts authorized to be appropriated, there are authorized to be appropriated $51,000,000 for each of the fiscal years 2007 through 2011 to provide grants to an additional 250 individuals under the Integrative Graduate Education and Research Traineeship program during each such fiscal year.

SEC. 403. PROFESSIONAL SCIENCE MASTER'S DEGREE PROGRAMS.

(a) CLEARINGHOUSE.—

(1) DEVELOPMENT.—From amounts appropriated under subsection (c), the Director of the National Science Foundation shall establish a clearinghouse, in collaboration with 4-year institutions of higher education, industries, and Federal agencies that employ science-trained personnel, to share program elements used in successful professional science master's degree programs.

(2) AVAILABILITY.—The Director of the National Science Foundation shall make the clearinghouse of program elements developed under paragraph (1) available to institutions of higher education that are developing professional science master's degree programs.

(b) PILOT PROGRAMS.—

(1) PROGRAM AUTHORIZED.—From amounts appropriated under subsection (c), the Director of the National Science Foundation shall award grants for pilot programs to 4-year institutions of higher education to facilitate the institutions' creation or improvement of professional science master's degree programs.

(2) APPLICATION.—A 4-year institution of higher education desiring a grant under this section shall submit an application at such time, in such manner, and accompanied by such information as the Director of the National Science Foundation may require. The application shall include—

(A) a description of the professional science master's degree program that the institution of higher education will implement;

(B) the amount of funding from non-Federal sources, including from private industries, that the institution of higher education shall use to support the professional science master's degree program; and

(C) an assurance that the institution of higher education shall encourage students in the professional science master's degree program to apply for all forms of Federal assistance available to such students, including applicable graduate fellowships and student financial assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(3) PREFERENCE FOR ALTERNATIVE FUNDING SOURCES.—The Director of the National Science Foundation shall give preference in making awards to 4-year institutions of higher education seeking Federal funding to support pilot professional science master's degree programs, to those applicants that secure more than ⅔ of the funding for such professional science master's degree programs from sources other than the Federal Government.

(4) NUMBER OF GRANTS; TIME PERIOD OF GRANTS.—

(A) NUMBER OF GRANTS.—Subject to the availability of appropriated funds, the Director of the National Science Foundation shall award grants under paragraph (1) to a maximum of 200 4-year institutions of higher education.

(B) TIME PERIOD OF GRANTS.—Grants awarded under this section shall be for one 3-year term. Grants may be renewed only once for a maximum of 2 additional years.

(5) EVALUATION AND REPORTS.—

(A) DEVELOPMENT OF PERFORMANCE BENCHMARKS.—Prior to the start of the grant program, the National Science Foundation, in collaboration with 4-year institutions of higher education, shall develop performance

benchmarks to evaluate the pilot programs assisted by grants under this section.

(B) EVALUATION.—For each year of the grant period, the Director of the National Science Foundation, in consultation with 4-year institutions of higher education, industry, and Federal agencies that employ science-trained personnel, shall complete an evaluation of each pilot program assisted by grants under this section. Any pilot program that fails to satisfy the performance benchmarks developed under subparagraph (A) shall not be eligible for further funding.

(C) REPORT.—Not later than 180 days after the completion of an evaluation described in subparagraph (B), the Director of the National Science Foundation, in consultation with industries and Federal agencies that employ science-trained personnel, shall submit a report to Congress that includes—

(i) the results of the evaluation described in subparagraph (B); and

(ii) recommendations for administrative and legislative action that could optimize the effectiveness of the pilot programs, as the Director determines to be appropriate.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $20,000,000 for fiscal year 2007 and such sums as may be necessary for each succeeding fiscal year.

SEC. 404. INCREASED SUPPORT FOR SCIENCE EDUCATION THROUGH THE NATIONAL SCIENCE FOUNDATION.

There are authorized to be appropriated to carry out the science, mathematics, engineering, and technology talent expansion program under section 8(7) of the National Science Foundation Authorization Act of 2002 (Public Law 107–368, 116 Stat. 3042) the following amounts:

(1) For fiscal year 2007, $35,000,000.

(2) For fiscal year 2008, $50,000,000.

(3) For fiscal year 2009, $100,000,000.

(4) For fiscal year 2010, $150,000,000.

SEC. 405. A NATIONAL COMMITMENT TO BASIC RESEARCH.

(a) PLAN FOR INCREASED RESEARCH.—Not later than 180 days after the date of the enactment of this Act, the Director of the National Science Foundation shall submit to Congress a comprehensive, multiyear plan that describes how the funds authorized in subsection (b) shall be used. Such plan shall be developed with a focus on utilizing basic research in physical science and engineering to optimize the United States economy as a global competitor and leader in productive innovation.

(b) INCREASED FUNDING FOR NATIONAL SCIENCE FOUNDATION.—There are authorized to be appropriated to the National Science Foundation for the purpose of doubling research funding the following amounts:

(1) $6,440,000,000 for fiscal year 2007.

(2) $7,280,000,000 for fiscal year 2008.

(3) $8,120,000,000 for fiscal year 2009.

(4) $8,960,000,000 for fiscal year 2010.

(5) $9,800,000,000 for fiscal year 2011.

(c) RECOMMENDATIONS FOR RESEARCH AND DEVELOPMENT FUNDING.—Not later than 1 year after the date of the enactment of this Act, the Director of the Office of Science and Technology Policy shall evaluate and, as appropriate, submit to Congress recommendations for an increase in funding for research and development in physical sciences and engineering in consultation with agencies and departments of the United States with significant research and development budgets.

SEC. 406. STUDY ON SERVICE SCIENCE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that, in order to strengthen the competitiveness of United States enterprises and institutions and to prepare the people of the United States for high-wage, high-skill employment, the Federal Government should better understand and respond strategically to the emerging vocation and learning discipline known as service science.

(b) STUDY.—Not later than 270 days after the date of the enactment of this Act, the Director of the National Science Foundation shall conduct a study and report to Congress regarding how the Federal Government should support, through research, education, and training, the new discipline of service science.

(c) OUTSIDE RESOURCES.—In conducting the study under subsection (b), the Director of the National Science Foundation shall consult with leaders from 2- and 4-year institutions of higher education, leaders from corporations, and other relevant parties.

By Mr. HARKIN (for himself and Ms. CANTWELL):

S. 3484. A bill to amend the Federal Food, Drug, and Cosmetic Act to extend the food labeling requirements of the Nutrition Labeling and Education Act of 1990 to enable customers to make informed choices about the nutritional content of standard menu items in large chain restaurants; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, today I am pleased to introduce the Menu Education and Labeling Act of 2006, along with my colleague, Senator CANTWELL of Washington. Our bill would extend the successful nutrition labeling that has been on packaged foods since the mid nineties to include foods at chain restaurants with 20 or more outlets and food sold in vending machines. The aim of this bill is to help Americans to take better charge of their health by giving them the tools that they need to make sound nutrition choices for themselves and their children.

It is no secret that poor health and the resulting health costs are major problems in the United States. According to the Centers for Medicare and Medicaid Services, total health care spending in the United States in 2004 was $1.8 trillion, and is expected to double by approximately 2014. Furthermore, chronic diseases, which are, in many cases preventable, account for approximately 75 percent of health care costs annually.

Poor nutrition, diet-related chronic diseases, overweight, and obesity are public health threats of the first order. Heart disease and stroke are the first and third leading causes of death in the United States and together, they account for about 40 percent of annual deaths in the United States. In addition, nearly two-thirds of adults are either overweight or obese.

But it is not just adults who are affected by poor diets. Kids are increasingly at risk as well. According to the National Academy of Sciences, over the last three decades, the obesity rate has doubled among preschoolers and adolescents, and tripled for kids between ages 6 and 11. For children born today, it is estimated that 30 percent of boys and 40 percent of girls will develop diabetes. Some scientists are predicting that the current generation of children may well be the first in American history to live shorter lives than their parents, largely because of poor diets and diet-related chronic disease.

The issues are economic as well. The economic impact of chronic disease can be seen in the annual costs associated with various conditions. Cardiovascular disease and stroke are estimated to cost $352 billion annually. The yearly economic impacts of obesity, cancer, and diabetes are estimated at $117 billion, $172 billion, and $132 billion, respectively. So we need to promote common-sense steps to prevent these conditions. Increasing consumer knowledge is one of them.

This bill will give consumers a much-needed tool to make wiser choices and achieve healthier lifestyles. Will individual steps like this, by themselves, be enough to turn the tide of chronic disease and poor health? Of course not. But we must look for opportunities to give consumers information they can use to take better control of their health.

In 1990, Congress passed the Nutrition Labeling and Education Act, NLEA, requiring food manufacturers to provide nutrition information on nearly all packaged foods. The impact has been extremely positive. Not only do nearly three-quarters of adults read and use the food labels on packaged foods, but studies indicate that consumers who read labels have healthier diets. It's time to extend this same opportunity to consumers who want to make smart nutrition choices in restaurants and at vending machines.

More and more of Americans' food dollars are spent in restaurants. Restaurants play an increasingly important role in Americans' diet and health. But restaurants were excluded from the NLEA.

Today, American adults and children consume a third of their calories at restaurants. Nutrition and health experts say that rising caloric consumption and growing portion sizes are causes of overweight and obesity. We also know that when children eat in restaurants, they consume twice as many calories as when they eat at home. Consumers say that they would like nutrition information provided when they order their food at restaurants. However, while they are fully informed about the nutrition content of food available in supermarkets, consumers at restaurants are almost totally in the dark, left to guess about what is in the foods they are ordering. This legislation seeks to remedy this so that consumers can make the same informed choices in a restaurant that they are currently able to make in the grocery store.

This legislation requires restaurants to convey only minimal but essential information, including calories, grams of fat and trans fat, and milligrams of sodium for each serving. In addition, it recognizes there may be inadvertent human errors that affect things such as variations in serving sizes and food preparation, so the bill directs the Secretary of Health and Human Services,

in promulgating regulations, to allow for some reasonable leeway. And finally, it recognizes that menus change from time to time, so the labeling requirements would not apply to daily specials or to temporary menu items. In short, we are not trying to require information for every individual thing that is made available at restaurants, but we are asking restaurants to provide clear and consistent information on those menu items that are broadly and consistently available.

There are some who will say this is impractical and an extraordinary burden on restaurants. I disagree. I have been through this debate before, when Congress was considering the NLEA. We heard the same parade of arguments and horror stories. But the law was passed anyway and, lo and behold, the sky did not fall. To the contrary, businesses made simple adjustments. Americans got access to the necessary information. It had positive health benefits. And at the end of the day, things worked out just fine.

In fact, you can even look at the Senate to see the potential success of this law. A couple of years ago, I wrote to the administrator of the Senate cafeteria, to which I often send out for lunch. I simply requested that the cafeteria, if possible, provide nutrition information on standard menu items. Not more than a couple of months later, printed handouts were available in the cafeteria with detailed nutrition information on the daily menu. This is not McDonald's, Burger King or Arby's. This is the Senate cafeteria. And by gosh, if the Senate cafeteria can do this without an undue burden, then surely so can the largest restaurant chains in the country.

I believe that most Americans want to take more charge of their health. They want to make the best decisions for both themselves and for their children. But it is hard to do so without nutrition information upon which they can base their informed decisions. This legislation seeks to give Americans the information they want and need. This will be a simple but very important step in the right direction, helping ourselves and our children to live healthier, happier, and more productive lives. I urge my colleagues to join us in supporting the Menu Education and Labeling Act of 2006.

By Mr. REID (for Mr. ROCKEFELLER (for himself, Mr. JEFFORDS, Mr. BAUCUS, Mr. LEAHY, and Ms. STABENOW)):

S. 3486. A bill to protect the privacy of veterans, spouses of veterans, and other persons affected by the security breach at the Department of Veterans Affairs on May 3, 2006, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mr. ROCKEFELLER. Mr. President, today's headline is sad and stunning. The VA Secretary now reports that 2.2 million active-duty military personnel were also exposed in the massive security breach at VA on May 3. This means that 1.1 million active-duty military personnel, 430,000 National Guard members and 645,000 reservists are exposed to potential identity theft. The brave men and women, who are serving and protecting our country, are not being protected by their own government.

This is deeply disturbing and we owe each servicemember and veteran real support to protect their financial information.

I have revised my legislation, S. 3176, the Veterans' Privacy Protection Act, to expand coverage to our military personnel. I am proud to have the cosponsorship of Senators JEFFORDS and BAUCUS.

Every American has the justifiable expectation that the Federal Government will protect their private personal information—information that they are required to provide to Federal agencies. It is a basic and fundamental responsibility of government to make sure that this sensitive data is handled appropriately, accessed only by authorized personal, and used only for intended purposes.

On May 22, the Department of Veterans Affairs, VA, announced that computer disks containing as many as 26.5 million veterans' personal information were stolen from an employee who had taken the information home. I, along with many of my colleagues, am outraged at this enormous lapse in security. The VA has an obligation to make sure that veterans and military personnel are not harmed because of the agency's failure to protect sensitive personal data.

This information includes social security numbers and dates of birth, the underpinnings of almost all of our financial information. In the wrong hands, this information can be used to steal a person's identity causing substantial harm. All of us have constituents who have been victims of identity theft. When a person's identity is stolen, it can have devastating financial consequences for that person and that family. Even if the financial harm is minimal, it often takes years to clear your name. Plus, veterans and military families must live with the uncertainty about the financial records.

I understand that the VA, FBI and local law enforcement are working on the investigation, but Congress must also conduct a thorough investigation into how this security breach occurred. I want to know why the VA waited almost three weeks for its first announcement. I want to know why it took another two weeks to compare files and realize that 2.2 million military personnel were also exposed.

In my opinion, it is inexcusable that veterans and military were not notified immediately that their personal information had been stolen and were not given any guidance as to the steps they should take to protect themselves from identity theft. I understand the VA inspector general has cited the agency for poor security policies and procedures. Congress must also begin a comprehensive review of the agency's security protocols and policies and force the agency to adopt stricter security measures to make sure that the personal data our veterans are required to provide the agency is not ever again at risk.

It is for this reason that I am reintroducing the Veterans' and Military Privacy Protection Act today. Although all Federal agencies need comprehensive data privacy policies, this is a targeted bill to address the security breach at the VA on an urgent basis.

Congress has required the Federal Trade Commission to address identity theft and its consequences. The agency has taken an aggressive approach in combating this devastating crime. My bill would require the Federal Trade Commission to develop a hotline explicitly for veterans and military personnel to provide the information, counseling, and help necessary to allow each person to protect himself from the loss of personal data.

At this point, our legislative response must cover all 28.7 million veterans and servicemembers that the VA believes may have had their personal information compromise. My bill would make it easier for them to request a long-term credit alert for their records so credit agencies are aware that their personal information could be being used by others. It is my understanding that a security freeze on an individual's record can have a modest cost, and VA has the obligation to cover the costs of this enormous security breach.

Finally, my bill requires the General Accountability Office to evaluate the VA response to this incident and to analyze the agency's security protocols. I believe that an independent investigation could generate a number of recommendations to improve the security of personal information not just in the VA but in all Federal agencies.

The VA has exposed millions of veterans and military to identity theft and potential financial problems. It is inconceivable to me how any Federal agency could have let this happen, and how the investigation and followup could be so haphazard. We all have heard the stories during the past year regarding massive breaches of private and confidential data by private entities. The Federal Government acted quickly to respond to these breaches and now it must act just as quickly if not more so to address its own failings. My bill is a critical step in providing the necessary assistance that millions of veterans and servicemembers may require, and I urge my colleagues to act on it with the urgency this situation demands.•

By Mr. KERRY (for himself and Mr. PRYOR):

S. 3487. A bill to amend the Small Business Act to reauthorize and improve the disaster loan program, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, June brings the beginning of the 2006 Atlantic Hurricane season, and according to the National Oceanic and Atmospheric Administration, we can expect it to be a busy one. The administration is predicting 13 to 16 named storms, with as many as 4 to 6 predicted to become major hurricanes of category three strength or higher.

As our gulf coast communities learned last fall, it only takes one of these storms to utterly destroy the homes, businesses and lives of millions of Americans. We owe it to the victims of Hurricanes Katrina, Rita and Wilma, as well as to the unsuspecting victims of future disasters, to fix the Federal disaster loan program and build it to be responsive to the needs of disaster victims.

That's why I am introducing the Small Business Disaster Loan Reauthorization and Improvement Act of 2006. This bill seeks to improve coordination between responding agencies in the immediate aftermath of a disaster. The priority of first responders should be addressing the needs of victims, and the laws establishing disaster response should allow for maximum agency collaboration in addressing those needs.

To this end, we have directed the Administrator of the Small Business Administration and the Director of the Federal Emergency Management Agency to coordinate disaster assistance application periods when possible. The Small Business Administration is directed to address any inconsistencies between the Federal regulations and the administration's standard operating procedures that govern the disaster loan program.The Administrator is also directed to work to the maximum extent practicable to gain speedy access to all relevant tax records for loan applicant consideration, and when considering applications, is directed to consider an applicant's credit rating from the day prior to the disaster's occurrence.

The Comptroller General is directed to study the current disaster assistance application and referral process that has resulted in an approval rate of only 35 percent of total disaster loan applicants. The Administrator is also directed to report on how this process can be improved. To increase awareness of available disaster loan assistance, the bill directs the Administrator to develop a proactive marketing plan that will get information on disaster loans in the hands of those who need it. The bill includes an additional study to be conducted by the Comptroller General on industries that may have difficulty accessing disaster loans.

In addition to reauthorizing the disaster loan program for a period of 3 years beginning in 2007, this bill provides the increased capital that homeowners and small business owners need and currently have trouble accessing following a major disaster. A presidential declaration of catastrophic national disaster will allow the Administrator to offer economic injury disaster loans to adversely affected business owners beyond the geographic reach of the disaster area. In addition, private lenders are encouraged to make disaster loans through the 7(a) and 504 lending programs with reduced fees, and the Administrator is authorized to enter into agreements with private contractors in order to expedite loan application processing for direct disaster loans.

Disaster victims are often in need of capital prior to when traditional assistance programs are available. To address this need, this bill establishes a process for providing Federal bridge loans, allowing States to redirect funding previously designated for Community Development Block Grants and use these funds to provide bridge loans and grants to disaster victims. Having this waiver in place will allow States to ensure that victims have the speedy access to capital while they wait for alternative sources of assistance.

Non-profit entities working to provide services to victims should be rewarded and given access to the capital they require to continue their services. To this end, the Administrator is authorized to make disaster loans to nonprofit entities, including religious organizations.

So that businesses are not limited during major disasters by a loan cap that is not sufficient to meet their needs, the bill increases the aggregate amount of loans available to $10,000,000 during a declared major disaster or a catastrophic national disaster.

This bill strengthens the Stafford Act by requiring a 10 percent goal for local firms to participate in the recovery and reconstruction effort. The bill also encourages the utilization of expedited procurement tools for small, small disadvantaged, service-disabled, and historically underutilized businesses.

Construction and rebuilding contracts being awarded are likely to be larger than the current $2 million threshold currently applied to the SBA Surety Bond Program which helps small construction firms gain access to contracts. This bill increases the guarantee against loss for small business contracts up to $5 million and allows the Administrator to increase that level to $10 million, if deemed necessary.

The bill also allows faster payments to small firms in order to increase their ability to gain access to bonds. To make bonding more attractive to surety providers in the disaster area, the Administrator may wave fees for sureties offering bonding in the disaster area and allows the sureties to use the State-approved rates for bonds awarded in the disaster area.

The bill also provides for small business development centers to offer business counseling in disaster areas, and to travel beyond traditional geographic boundaries to provide services during declared disasters. To encourage small business development centers located in disaster areas to keep their doors open, the maximum grant amount of $100,000 is waived.

So that Congress may remain better aware of the status of the administration's disaster loan program, this bill directs the administration to report to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives regularly on the fiscal status of the disaster loan program as well as the need for supplemental funding. The administration is also directed to report on the number of Federal contracts awarded to small businesses, minority-owned small businesses, women-owned businesses, and local businesses during a disaster declaration.

Many small businesses depend on the contributions of America's military reservists, and have been struggling through the months that these brave men and women have served their country through active duty. This bill authorizes the Administrator to provide grants to the smallest of these firms to assist them as they seek to remain open.

Gas prices continue to soar, and fuel dependent small businesses are struggling with the cost of energy. This bill provides relief to small business owners during times of above average energy price increases, authorizing energy disaster loans through the Small Business Administration and the United States Department of Agriculture to companies dependent on fuel.

Residents of the gulf coast continue to rebuild from last year's hurricane season, and they do so despite the slow and inadequate response from their Federal Government. By increasing access to capital for small businesses suffering as a result of a disaster, and by ensuring that Federal agencies charged with disaster response are doing their jobs in a coordinated manner that puts the needs of victims first, we can ensure that the Federal Government is better prepared to respond to future disasters.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 505—AUTHORIZING THE TAKING OF A PHOTOGRAPH IN THE CHAMBER OF THE UNITED STATES SENATE

Mr. FRIST (for himself and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 505

Resolved. That paragraph 1 of rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be

temporarily suspended for the sole and specific purpose of permitting an official photograph to be taken of Members of the United States Senate on June 13, 2006.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefore, which arrangements shall provide for a minimum of disruption to Senate proceedings.

SENATE RESOLUTION 506—TO DESIGNATE THE PERIOD BEGINNING ON JUNE 5, 2006, AND ENDING ON JUNE 8, 2006, AS ''NATIONAL HEALTH IT WEEK''

Ms. STABENOW (for herself, Ms. SNOWE, Mrs. MURRAY, and Mr. LAUTENBERG) submitted the following resolution; which was considered and agreed to:

S. RES. 506

Whereas the Center for Information Technology Leadership estimated that the implementation of national standards for interoperability and the exchange of health information would save the United States approximately $77,000,000,000 in expenses relating to healthcare each year;

Whereas the RAND Corporation estimated that, if the healthcare system of the United States implemented the use of computerized medical records, the system could save the United States more than $81,000,000,000 each year;

Whereas healthcare information technology has been shown to improve the quality and safety of the delivery of healthcare in the United States;

Whereas healthcare information technology and management systems have been recognized as essential tools for improving the quality and cost efficiency of the healthcare system;

Whereas the President and Secretary of Health and Human Services have made a commitment to leveraging the benefits of the healthcare information technology and management systems by establishing of the Office of the National Coordinator for Health Information Technology and the American Health Information Community;

Whereas Congress has placed an emphasis on improving the quality and safety of the delivery of healthcare in the United States; and

Whereas 42 organizations have come together to support National Healthcare IT Week to improve public awareness relating to the potential benefits of improved quality and cost efficiency that the healthcare system could achieve by implementing health information technology: Now, therefore, be it

Resolved, That the Senate designates the period beginning on June 5, 2006, and ending on June 8, 2006, as ''National Health IT Week''.

SENATE CONCURRENT RESOLUTION 98—COMMEMORATING THE 39TH ANNIVERSARY OF THE REUNIFICATION OF THE CITY OF JERUSALEM

Mr. BROWNBACK (for himself, Mr. LIEBERMAN, Mr. ALLEN, Ms. COLLINS, Mr. FRIST, Ms. MIKULSKI, Mr. PRYOR, Mr. SANTORUM, Mr. SMITH, Mrs. CLINTON, Mr. REID, Mrs. DOLE, and Mr. INHOFE) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 98

Whereas, for 3,000 years, Jerusalem has been the holiest city of Judaism and the focal point of Jewish religious devotion;

Whereas Jerusalem is also considered a holy city by members of other religious faiths;

Whereas, from 1948 to 1967, Jerusalem was a divided city, and Israeli citizens of all faiths, as well as Jewish citizens of all countries, were denied access to certain holy sites;

Whereas, in 1967, Jerusalem was reunited by Israel during the conflict known as the ''Six Day War'';

Whereas, since 1967, Jerusalem has been a united city, and persons of all religious faiths have been guaranteed full access to holy sites within the city;

Whereas this year marks the 39th year that Jerusalem has been administered as a unified city in which the rights of every ethnic and religious group are protected;

Whereas, in 1990, the Senate and House of Representatives overwhelmingly adopted S. Con. Res. 106 (101st Congress) and H. Con. Res. 290 (101st Congress), declaring that Jerusalem, the capital of Israel, ''must remain an undivided city'' and calling on Israel and the Palestinians to begin negotiations to resolve their differences;

Whereas each sovereign country, under international law and custom, has the right to designate its own capital;

Whereas Jerusalem is the seat of the Government of Israel, including the President, the Parliament, and the Supreme Court;

Whereas the Jerusalem Embassy Act of 1995 (Public Law 104–45; 109 Stat. 398), which became law on November 8, 1995, states as a matter of United States policy that Jerusalem should remain the undivided capital of Israel in which the rights of every ethnic and religious group are protected;

Whereas section 214 of the Foreign Relations Authorization Act, Fiscal Year 2003 (5 U.S.C. 8411 note; Public Law 107–228) directs that the Secretary of State shall, upon the request of a citizen or a legal guardian of a citizen, record the place of birth of a United States citizen born in the city of Jerusalem as Israel: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) congratulates the residents of Jerusalem and the people of Israel on the 39th anniversary of the reunification of that historic city;

(2) strongly believes that Jerusalem must remain an undivided city in which the rights of every ethnic and religious group are protected as they have been by Israel during the past 39 years;

(3) calls upon the President and Secretary of State to publicly affirm, as a matter of United States policy, that Jerusalem must remain the undivided capital of the State of Israel;

(4) strongly urges the President—

(A) to discontinue use of the waiver contained in the Jerusalem Embassy Act of 1995 (Public Law 104–45; 108 Stat. 398);

(B) to carry out the provisions of that Act immediately; and

(C) to begin the process of relocating the United States Embassy in Israel to Jerusalem; and

(5) further urges officials of the United States to carry out section 214 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1365).

AMENDMENTS SUBMITTED AND PROPOSED

SA 4194. Mr. CARPER submitted an amendment intended to be proposed by him to the bill H.R. 8, to make the repeal of the estate tax permanent; which was ordered to lie on the table.

SA 4195. Mr. CARPER submitted an amendment intended to be proposed by him to the bill H.R. 8, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4194. Mr. CARPER submitted an amendment intended to be proposed by him to the bill H.R. 8, to make the repeal of the estate tax permanent; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. PERMANENT EXTENSION OF ESTATE TAX AS IN EFFECT IN 2009.

(a) EXCLUSION EQUIVALENT OF UNIFIED CREDIT EQUAL TO $3,500,000.—Subsection (c) of section 2010 of the Internal Revenue Code of 1986 (relating to unified credit against estate tax) is amended to read as follows:

''(c) APPLICABLE CREDIT AMOUNT.—

''(1) IN GENERAL.—For purposes of this section, the applicable credit amount is the amount of the tentative tax which would be determined under section 2001(c) if the sum determined under subsection (b)(1) were equal to the applicable exclusion amount.

''(2) APPLICABLE EXCLUSION AMOUNT.—

''(A) IN GENERAL.—For purposes of this subsection, the applicable exclusion amount is $3,500,000.

''(B) INFLATION ADJUSTMENT.—In the case of any decedent dying in a calendar year after 2010, the dollar amount in subparagraph (A) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2009' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.''.

(b) MAXIMUM ESTATE TAX RATE EQUAL TO 45 PERCENT.—Subsection (c) of section 2001 of the Internal Revenue Code of 1986 (relating to imposition and rate of tax) is amended—

(1) by striking ''but not over $2,000,000'' in the table contained in paragraph (1),

(2) by striking the last 2 items in such table,

(3) by striking ''(1) IN GENERAL.—'', and

(4) by striking paragraph (2).

(c) MODIFICATIONS OF ESTATE AND GIFT TAXES TO REFLECT DIFFERENCES IN UNIFIED CREDIT RESULTING FROM DIFFERENT TAX RATES.—

(1) ESTATE TAX.—

(A) IN GENERAL.—Section 2001(b)(2) of the Internal Revenue Code of 1986 (relating to computation of tax) is amended by striking ''if the provisions of subsection (c) (as in effect at the decedent's death)'' and inserting ''if the modifications described in subsection (g)''.

(B) MODIFICATIONS.—Section 2001 of such Code is amended by adding at the end the following new subsection:

''(g) MODIFICATIONS TO GIFT TAX PAYABLE TO REFLECT DIFFERENT TAX RATES.—For purposes of applying subsection (b)(2) with respect to 1 or more gifts, the rates of tax under subsection (c) in effect at the decedent's death shall, in lieu of the rates of tax

in effect at the time of such gifts, be used both to compute—

''(1) the tax imposed by chapter 12 with respect to such gifts, and

''(2) the credit allowed against such tax under section 2505, including in computing—

''(A) the applicable credit amount under section 2505(a)(1), and

''(B) the sum of the amounts allowed as a credit for all preceding periods under section 2505(a)(2).

For purposes of paragraph (2)(A), the applicable credit amount for any calendar year before 1998 is the amount which would be determined under section 2010(c) if the applicable exclusion amount were the dollar amount under section 6018(a)(1) for such year.''.

(2) GIFT TAX.—Section 2505(a) of such Code (relating to unified credit against gift tax) is amended by adding at the end the following new flush sentence:

''For purposes of applying paragraph (2) for any calendar year, the rates of tax in effect under section 2502(a)(2) for such calendar year shall, in lieu of the rates of tax in effect for preceding calendar periods, be used in determining the amounts allowable as a credit under this section for all preceding calendar periods.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, generation-skipping transfers, and gifts made, after December 31, 2009.

(e) MODIFICATIONS TO ESTATE TAX.—

(1) IN GENERAL.—Subtitles A and E of title V of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such subtitles, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subtitles, and amendments, had never been enacted.

(2) SUNSET NOT TO APPLY.—

(A) Subsection (a) of section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking ''this Act'' and all that follows and inserting ''this Act (other than title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.''.

(B) Subsection (b) of such section 901 is amended by striking '', estates, gifts, and transfers''.

(3) REPEAL OF DEADWOOD.—Sections 2011, 2057, and 2604 of the Internal Revenue Code of 1986 are hereby repealed.

SA 4195. Mr. CARPER submitted an amendment intended to be proposed by him to the bill H.R. 8, to make the repeal of the estate tax permanent; which was ordered to lie on the table; as follows:

Amend the title as to read:

''An Act to amend the Internal Revenue Code of 1986 to make permanent the estate tax in effect in 2009, including the step-up-in-basis regime, and for other purposes.''

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee to meet on Armed Services be authorized to meet during the session of the Senate on Thursday, June 8, 2006, at 9:30 a.m., in closed session, to receive a classified briefing on overhead imagery systems.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MCCONNELL. Mr. President, I ask unanimous consent, that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, June 8, 2006, at 4 p.m., to receive a briefing on the loss of personal information about Department of Defense personnel as a result of the theft of a computer from a Department of Veterans Affairs analyst.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, June 8, 2006, at 5:20 p.m., to receive a classified briefing on the death of Al-Zarqawi.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 8, 2006, at 10 a.m., to conduct a hearing on the nominations of Ms. Sheila C. Bair, of Kansas, to be a member and chairperson of the Board of Directors of the Federal Deposit Insurance Corporation; Mr. James B. Lockhart III, of Connecticut, to be the Director of the Office of Federal Housing Enterprise Oversight; Mr. Donald L. Kohn, of Virginia, to be Vice Chairman of the Board of Governors of the Federal Reserve System; and Ms. Kathleen L. Casey, of Virginia, to be a member of the Securities and Exchange Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, June 8, 2006, at 2:30 p.m. on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, June 8, 2006, at 10 a.m. The purpose of this hearing is to consider the nominations of: Philip D. Moeller, of Washington, to be a member of the Federal Energy Regulatory Commission for the term expiring June 30, 2010, Vice Patrick Henry Wood III, resigned and Jon Wellinghoff, of Nevada, to be a member of the Federal Energy Regulatory Commission for the term expiring June 30, 2008, Vice William Lloyd Massey, term expired.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Thursday, June 8, 2006, at 11 a.m., in 215 Dirksen Senate Office Building, to consider original bills entitled, the ''Medicare, Medicaid, and SCHIP Indian Health Care Improvement Act of 2006'', and the ''Improving Outcomes for Children Affected by Meth Act of 2006''.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 8, 2006, at 9:30 a.m. to hold a hearing on The Role of Non-Governmental Organizations in the Development of Democracy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Homeland Security Affairs Governmental Affairs be authorized to meet on Thursday, June 8, 2006, at 10 a.m., for a hearing titled, ''National Emergency Management: Where Does FEMA Belong?''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, June 8,2006, at 9:30 a.m., in the Dirksen Senate Office Building room 226. The agenda will be provided when it becomes available.

I. Nominations: Andrew J. Guilford, to be U.S. District Judge for the Central District of California; Frank D. Whitney, to be U.S. District Judge for the Western District of North Carolina; Kenneth L. Wainstein, to be an Assistant Attorney General; Charles P. Rosenberg, to be U.S. Attorney for the Eastern District of Virginia.

II. Bills: S. 2453, National Security Surveillance Act of 2006, Specter; S. 2455, Terrorist Surveillance Act of 2006, DeWine, Graham; S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes, Schumer; S. 3001, Foreign Intelligence Surveillance Improvement and Enhancement Act of 2006, Specter, Feinstein; S. 2831, Free Flow of Information Act of 2006, Lugar, Specter, Graham, Schumer, Biden.

III. Matters: S.J. Res. 12, Flag Desecration resolution, Hatch, Feinstein, Brownback, Coburn, Cornyn, DeWine, Graham, Grassley, Kyl, Sessions, Specter.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, June 8, 2006, for a committee hearing re pending benefits related legislation. The hearing will take place in room 418 of the Russell Senate Office Building at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on June 8, 2006, at 2:30 p.m. to hold a closed briefing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CORRECTIONS AND REHABILITATION

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary Subcommittee on Corrections and Rehabilitation be authorized to meet to conduct a hearing on ''The Findings and Recommendations of the Commission on Safety and Abuse in America's Prisons'' on Thursday, June 8, 2006, at 2:30 p.m. in Room 226 of the Dirksen Senate Office Building. Witness list.

The Honorable John J. Gibbons, Commission Co-Chairman, Former Chief Judge of the U.S. Court of Appeals for the Third Circuit, Newark, NJ.

Nicholas de B. Katzenbach, Commission Co-Chairman, Former U.S. Attorney General, Princeton, NJ.

Gary D. Maynard, Commissioner, Director of the Iowa Department of Corrections and President-Elect of the American Correctional Association, Des Moines, IA.

Mark H. Morial, Commissioner, President and CEO of the National Urban League, former Mayor of New Orleans and Louisiana State Senator, New York, NY.

Pat Nolan, Commissioner, President of Prison Fellowship's Justice Fellowship and a member of the National Prison Rape Elimination Commission, Lansedowne, VA.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations Subcommittee on East Asian and Pacific Affairs be authorized to meet during the session of the Senate on Thursday, June 8, 2006, at 2:30 p.m. to hold a hearing on Asian Adoptions in the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL OCEAN POLICY STUDY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation Subcommittee on National Ocean Policy Study be authorized to meet on Thursday, June 8, 2006, at 10 a.m. on Offshore Aquaculture: Challenges of Fish Farming in Federal Waters.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ISAKSON). Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—S. 2766

Mr. MCCONNELL. Mr. President, I am going to close shortly. First the distinguished Senator from Virginia, chairman of the Armed Services Committee, will seek recognition.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, in consultation with the distinguished leadership on both sides, Senator LEVIN and I participating, I am pleased to ask unanimous consent that at 3 p.m. on Monday, June 12, the Senate proceed to the immediate consideration of S. 2766, the Defense authorization bill; further, that Senator LEVIN be recognized at 5:30 to make his opening statement; provided further that Senator WARNER then be recognized and that no amendments be in order until the chairman is recognized at that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Again, I thank the leadership. I am very anxious, as are all members of the Armed Services Committee from both sides of the aisle, and my esteemed ranking member, Senator LEVIN, to begin this bill on Monday. It is our hope that we can proceed as quickly as possible, fully recognizing that there may be, hopefully, an interruption with regard to the supplemental appropriations conference report. At some point—and I discussed this with Senator LEVIN—it would be our intention to approach our leadership in hopes that in the amendment process, after a day or so in the beginning, we can turn to the tradition of having relevant amendments so that we can bring this bill to a close. That gives Senators an opportunity in the first day or so to present whatever they wish and then thereafter proceed to matters that have a direct relevance to the bill itself.

I thank the distinguished leader for the opportunity to address the Senate.

Mr. MCCONNELL. Mr. President, I compliment the distinguished Senator from Virginia, the chairman of the Armed Services Committee, who has managed many of these very difficult measures over the years and is raring to go one more time starting Monday. We look forward to responding to his leadership.

Mr. WARNER. I thank the Senator.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that on Tuesday, June 13, at 2:30 p.m., immediately following the official photograph, there be 60 minutes equally divided for debate prior to the cloture vote on Executive Calendar No. 553, with 15 minutes under the control of Senator BYRD, and 15 minutes under the control of Senator KENNEDY, and 30 minutes under the control of Chairman ENZI; provided further, that if cloture is invoked on the nomination, the Senate proceed to an immediate vote on the confirmation of the nomination, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING THE TAKING OF A PHOTO IN THE SENATE CHAMBER

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 505, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 505) authorizing the taking of a photograph in the Chamber of the United States Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 505) was agreed to, as follows:

S. RES. 505

Resolved, That paragraph 1 of rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting an official photograph to be taken of Members of the United States Senate on June 13, 2006.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefore, which arrangements shall provide for a minimum of disruption to Senate proceedings.

NATIONAL HEALTH IT WEEK

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 506, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 506) to designate the period beginning on June 5, 2006, and ending June 8, 2006, as ''National Health IT week.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be

agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 506) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 506

Whereas the Center for Information Technology Leadership estimated that the implementation of national standards for interoperability and the exchange of health information would save the United States approximately $77,000,000,000 in expenses relating to healthcare each year;

Whereas the RAND Corporation estimated that, if the healthcare system of the United States implemented the use of computerized medical records, the system could save the United States more than $81,000,000,000 each year;

Whereas healthcare information technology has been shown to improve the quality and safety of the delivery of healthcare in the United States;

Whereas healthcare information technology and management systems have been recognized as essential tools for improving the quality and cost efficiency of the healthcare system;

Whereas the President and Secretary of Health and Human Services have made a commitment to leveraging the benefits of the healthcare information technology and management systems by establishing of the Office of the National Coordinator for Health Information Technology and the American Health Information Community;

Whereas Congress has placed an emphasis on improving the quality and safety of the delivery of healthcare in the United States; and

Whereas 42 organizations have come together to support National Healthcare IT Week to improve public awareness relating to the potential benefits of improved quality and cost efficiency that the healthcare system could achieve by implementing health information technology: Now, therefore, be it

Resolved, That the Senate designates the period beginning on June 5, 2006, and ending on June 8, 2006, as ''National Health IT Week''.

EXPRESSING THE SENSE OF THE SENATE ON THE DISCUSSION BY THE NORTH ATLANTIC COUNCIL

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 444, S. Res. 456.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 456) expressing the sense of the Senate on the discussion by the North Atlantic Council of secure, sustainable, and reliable sources of energy.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 456) was agreed to, as follows:

S. RES. 456

Resolved, That it is the sense of the Senate that—

(1) the President should place on the agenda for discussion at the North Atlantic Council, as soon as practicable, the merits of establishing a policy and strategy for the North Atlantic Treaty Organization to promote the security of members of the Organization through the development of secure, sustainable, and reliable sources of energy; and

(2) the President should submit to Congress a report that sets forth—

(A) the actions the United States has taken to place the matter referred to in paragraph (1) on the agenda for discussion at the North Atlantic Council;

(B) the position of the United States on the matter, as communicated to the North Atlantic Council by the representatives of the United States to the Council;

(C) a summary of the debate on the matter at the North Atlantic Council, including any decision that has been reached with respect to the matter by the Council; and

(D) a strategy for the North Atlantic Treaty Organization to develop secure, sustainable, and reliable sources of energy, including contingency plans if current energy resources are put at risk.

ORDERS FOR FRIDAY, JUNE 9, 2006

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Friday, June 9. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MCCONNELL. Mr. President, for the information of our colleagues, there will be no votes tomorrow, Friday. On Monday, we will begin consideration of the Defense authorization matter. Senators are encouraged to come to the floor to give their opening statements during Monday's session. No votes will occur on Monday, and the next vote will be on Tuesday prior to the policy luncheons.

I remind everyone that on Tuesday at 2:15 p.m., we will have our official photograph taken in the Senate Chamber. Senators should be seated at their desks promptly at 2:15 p.m. on Tuesday.

A few minutes ago, we locked in an agreement for debate and a cloture vote on a Mine Safety and Health nomination. That vote will occur at 3:30 p.m. on Tuesday. Again, I remind everyone that the first vote will occur prior to the policy lunch recess.

In addition to a busy week on the Defense authorization bill, next week we will address the supplemental appropriations conference report which should shortly be available. I know, I just signed it myself.

I will have more to say on Friday regarding next week's schedule.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. In my capacity as a Senator from the State of Georgia, I ask unanimous consent that the order for the quorum call be rescinded.

Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. In my capacity as a Senator from the State of Georgia, if there is no further business to come before the Senate, I ask unanimous consent that it stand in adjournment under the previous order.

There being no objection, the Senate, at 6:53 p.m., adjourned until Friday, June 9, 2006, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate Thursday, June 8, 2006:

EXECUTIVE OFFICE OF THE PRESIDENT

SUSAN C. SCHWAB, OF MARYLAND, TO BE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

NOEL LAWRENCE HILLMAN, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

PETER G. SHERIDAN, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

THOMAS L. LUDINGTON, OF MICHIGAN, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN.

SEAN F. COX, OF MICHIGAN, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN.